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 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 2nd January, 1998.

No. RP-48/Act 26 of 96 /97/E/2/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19th August, 1996/Shravan 28, 1918 (Saka)

The following Act of Parliament received the assent of the President on the 16th August, 1996 and is hereby published for general information :

THE ARBITRATION AND CONCILIATION ACT, 1996.

AN ACT

(Act No. 26 of 1996)

(16th August, 1996)

to consolidate and amend the law relating to domestic arbitration, international commercial arbitration and enforcement of foreign arbitral awards as also to define the law relating to conciliation and for matters connected therewith or incidental thereto.

WHEREAS the United Nations Commission on International Trade Law (UNCITRAL) has adopted the UNCITRAL Model Law on International Commercial Arbitration in 1985;

Preamble.

AND WHEREAS the General Assembly of the United Nations has recommended that

all countries give due consideration to the said Model Law, in view of the desirability of uniformity of the law of arbitral procedures and the specific needs of international commercial arbitration practice;

AND WHEREAS the UNCITRAL has adopted the UNCITRAL Conciliation Rules in 1980;

AND WHEREAS the General Assembly of the United Nations has recommended the use of the said Rules in cases where a dispute arises in the context of international commercial relations and the parties seek an amicable settlement of that dispute by recourse to conciliation;

AND WHEREAS the said Model Law and Rules make significant contribution to the establishment of a unified legal framework for the fair and efficient settlement of disputes arising in international commercial relations;

AND WHEREAS it is expedient to make law respecting arbitration and conciliation, taking into account the aforesaid Model Law and Rules;

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

PRELIMINARY

Short title,
extent and
commencement

1. (1) This Act may be called the Arbitration and Conciliation Act, 1996;

(2) It extends to the whole of India:

Provided that Parts I, III and IV shall extend to the State of Jammu and Kashmir only in so far as they relate to international commercial arbitration or, as the case may be, international commercial conciliation.

Explanation.—In this sub-section, the expression "international commercial conciliation" shall have the same meaning as the expression "international commercial arbitration" in clause (f) of sub-section (1) of section 2, subject to the modification that for the word "arbitration" occurring therein, the word "conciliation" shall be substituted.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

PART I

ARBITRATION

CHAPTER I

General provisions

Definitions.

2. (1) In this Part, unless the context otherwise requires,—

(a) "arbitration" means any arbitration whether or not administered by permanent arbitral institution;

(b) "arbitration agreement" means an agreement referred to in section 7;

(c) "arbitral award" includes an interim award;

(d) "arbitral tribunal" means a sole arbitrator or a panel of arbitrators;

(e) "Court" means the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any civil court of a grade inferior to such principal Civil Court, or any Court of Small Causes;

(f) "international commercial arbitration" means an arbitration relating to disputes arising out of legal relationships, whether contractual or not, considered as commercial under the law in force in India and where at least one of the parties is—

(i) an individual who is a national of, or habitually resident in, any country other than India; or

(ii) a body corporate which is incorporated in any country other than India; or

(iii) a company or an association or a body of individuals whose central management and control is exercised in any country other than India; or

(iv) the Government of a foreign country;

(g) "legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased, and, where a party acts in a representative character, the person on whom the estate devolves on the death of the party so acting;

(h) "party" means a party to an arbitration agreement.

(2) This Part shall apply where the place of arbitration is in India.

Scope.

(3) This Part shall not affect any other law for the time being in force by virtue of which certain disputes may not be submitted to arbitration.

(4) This Part except sub-section (1) of section 40, sections 41 and 43 shall apply to every arbitration under any other enactment for the time being in force, as if the arbitration were pursuant to an arbitration agreement, and as if that other enactment were an arbitration agreement, except in so far as the provisions of this Part are inconsistent with that other enactment or with any rules made thereunder.

(5) Subject to the provisions of sub-section (4), and save in so far as is otherwise provided by any law for the time being in force or in any agreement in force between India and any other country or countries, this Part shall apply to all arbitrations and to all proceedings relating thereto.

(6) Where this Part, except section 28, leaves the parties free to determine a certain issue, that freedom shall include the right of the parties to authorise any person including an institution, to determine that issue.

Construction of references.

(7) An arbitral award made under this Part shall be considered as a domestic award.

(8) Where this Part—

(a) refers to the fact that the parties have agreed or that they may agree, or

(b) in any other way refers to an agreement of the parties,

that agreement shall include any arbitration rules referred to in that agreement.

(9) Where this Part, other than clause (a) of section 25 or clause (a) of sub-section (2) of section 32, refers to a claim, it shall also apply to a counterclaim, and where it refers to a defence, it shall also apply to a defence to that counterclaim.

Receipt of
written
communica-
tions.

3. (1) Unless otherwise agreed by the parties,—

(a) any written communication is deemed to have been received if it is delivered to the addressee personally or at his place of business, habitual residence or mailing address, and

(b) if none of the places referred to in clause (a) can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last known place of business, habitual residence or mailing address by registered letter or by any other means which provides a record of the attempt to deliver it.

(2) The communication is deemed to have been received on the day it is so delivered.

(3) This section does not apply to written communications in respect of proceedings of any judicial authority.

Waiver of
right to
object.

4. A party who knows that—

(a) any provision of this Part from which the parties may derogate, or

(b) any requirement under the arbitration agreement,

has not been complied with and yet proceeds with the arbitration without stating his objection to such non-compliance without undue delay or, if a time limit is provided for stating that objection, within that period of time, shall be deemed to have waived his right to so object.

Extent of
judicial
intervention.

5. Notwithstanding anything contained in any other law for the time being in force, in matters governed by this Part, no judicial authority shall intervene except where so provided in this Part.

Adminis-
trative
assistance.

6. In order to facilitate the conduct of the arbitral proceedings, the parties, or the arbitral tribunal with the consent of the parties, may arrange for administrative assistance by a suitable institution or person.

CHAPTER II

Arbitration agreement

Arbitration
agreement.

7. (1) In this Part, "arbitration agreement" means an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not.

(2) An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.

(3) An arbitration agreement shall be in writing.

(4) An arbitration agreement is in writing if it is contained in—

(a) a document signed by the parties;

(b) an exchange of letters, telex, telegrams or other means of telecommunication which provide a record of the agreement; or

(c) an exchange of statements of claim and defence in which the existence of the agreement is alleged by one party and not denied by the other.

(5) The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement if the contract is in writing and the reference is such as to make that arbitration clause part of the contract.

8. (1) A judicial authority before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so applies not later than when submitting his first statement on the substance of the dispute, refer the parties to arbitration.

Power to refer parties to arbitration where there is an arbitration agreement.

(2) The application referred to in sub-section (1) shall not be entertained unless it is accompanied by the original arbitration agreement or a duly certified copy thereof.

(3) Notwithstanding that an application has been made under sub-section (1) and that the issue is pending before the judicial authority, an arbitration may be commenced or continued and an arbitral award made.

9. A party may, before or during arbitral proceedings or at any time after the making of the arbitral award but before it is enforced in accordance with section 36, apply to a court—

Interim measures etc. by Court.

(i) for the appointment of a guardian for a minor or person of unsound mind for the purposes of arbitral proceedings; or

(ii) for an interim measure of protection in respect of any of the following matters, namely:—

(a) the preservation, interim custody or sale of any goods which are the subject-matter of the arbitration agreement;

(b) securing the amount in dispute in the arbitration;

(c) the detention, preservation or inspection of any property or thing which is the subject-matter of the dispute in arbitration, or as to which any question may arise therein and authorising for any of the aforesaid purposes any person to enter upon any land or building in the possession of any party, or authorising any samples to be taken or any observation to be made, or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence;

(d) interim injunction or the appointment of a receiver;

(e) such other interim measure of protection as may appear to the Court to be just and convenient.

and the Court shall have the same power for making orders as it has for the purpose of, and in relation to, any proceedings before it.

CHAPTER III

Composition of arbitral tribunal

10. (1) The parties are free to determine the number of arbitrators, provided that such number shall not be an even number.

Number of arbitrators.

(2) Failing the determination referred to in sub-section (1), the arbitral tribunal shall consist of a sole arbitrator.

Appoint-
ment of
arbitrators.

11. (1) A person of any nationality may be an arbitrator, unless otherwise agreed by the parties.

(2) Subject to sub-section (6), the parties are free to agree on a procedure for appointing the arbitrator or arbitrators.

(3) Failing any agreement referred to in sub-section (2), in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two appointed arbitrators shall appoint the third arbitrator who shall act as the presiding arbitrator.

(4) If the appointment procedure in sub-section (3) applies and—

(a) a party fails to appoint an arbitrator within thirty days from the receipt of a request to do so from the other party; or

(b) the two appointed arbitrators fail to agree on the third arbitrator within thirty days from the date of their appointment,

the appointment shall be made, upon request of a party, by the Chief Justice or any person or institution designated by him.

(5) Failing any agreement referred to in sub-section (2), in an arbitration with a sole arbitrator, if the parties fail to agree on the arbitrator within thirty days from receipt of a request by one party from the other party to so agree the appointment shall be made, upon request of a party, by the Chief Justice or any person or institution designated by him.

(6) Where, under an appointment procedure agreed upon by the parties,—

(a) a party fails to act as required under that procedure; or

(b) the parties, or the two appointed arbitrators, fail to reach an agreement expected of them under that procedure; or

(c) a person, including an institution, fails to perform any function entrusted to him or it under that procedure,

a party may request the Chief Justice or any person or institution designated by him to take the necessary measure, unless the agreement on the appointment procedure provides other means for securing the appointment.

(7) A decision on a matter entrusted by sub-section (4) or sub-section (5) or sub-section (6) to the Chief Justice or the person or institution designated by him is final.

(8) The Chief Justice or the person or institution designated by him, in appointing an arbitrator, shall have due regard to—

(a) any qualifications required of the arbitrator by the agreement of the parties; and

(b) other considerations as are likely to secure the appointment of an independent and impartial arbitrator.

(9) In the case of appointment of sole or third arbitrator in an international commercial arbitration, the Chief Justice of India or the person or institution designated by him may appoint an arbitrator of a nationality other than the nationalities of the

parties where the parties belong to different nationalities.

(10) The Chief Justice may make such scheme as he may deem appropriate for dealing with matters entrusted by sub-section (4) or sub-section (5) or sub-section (6) to him.

(11) Where more than one request has been made under sub-section (4) or sub-section (5) or sub-section (6) to the Chief Justices of different High Courts or their designates, the Chief Justice or his designate to whom the request has been first made under the relevant sub-section shall alone be competent to decide on the request.

(12) (a) Where the matters referred to in sub-sections (4), (5), (6), (7), (8) and (10) arise in an international commercial arbitration the reference to "Chief Justice" in those sub-sections shall be construed as a reference to the "Chief Justice of India."

(b) Where the matters referred to in sub-sections (4), (5), (6), (7), (8) and (10) arise in any other arbitration, the reference to "Chief Justice" in those sub-sections shall be construed as a reference to the Chief Justice of the High Court within whose local limits the principal Civil Court referred to in clause (e) of sub-section (1) of section 2 is situate and, where the High Court itself is the Court referred to in that clause, to the Chief Justice of that High Court.

12. (1) When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose in writing any circumstances likely to give rise to justifiable doubts as to his independence or impartiality.

Grounds for challenge.

(2) An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall, without delay, disclose to the parties in writing any circumstances referred to in sub-section (1) unless they have already been informed of them by him.

(3) An arbitrator may be challenged only if—

(a) circumstances exist that give rise to justifiable doubts as to his independence or impartiality, or

(b) he does not possess the qualifications agreed to by the parties.

(4) A party may challenge an arbitrator appointed by him, or in whose appointment he has participated, only for reasons of which he becomes aware after the appointment has been made.

13. (1) Subject to sub-section (4), the parties are free to agree on a procedure for challenging an arbitrator.

Challenge procedure.

(2) Failing any agreement referred to in sub-section (1), a party who intends to challenge an arbitrator shall, within fifteen days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of any circumstances referred to in sub-section (3) of section 12, send a written statement of the reasons for the challenge to the arbitral tribunal.

(3) Unless the arbitrator challenged under sub-section (2) withdraws from his office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.

(4) If a challenge under any procedure agreed upon by the parties or under the procedure under sub-section (2) is not successful, the arbitral tribunal shall continue the arbitral proceedings and make an arbitral award.

(5) Where an arbitral award is made under sub-section (4), the party challenging the arbitrator may make an application for setting aside such an arbitral award in accordance with section 34.

(6) Where an arbitral award is set aside on an application made under sub-section (5), the Court may decide as to whether the arbitrator who is challenged is entitled to any fees.

Failure or
impossi-
bility
to act.

14. (1) The mandate of an arbitrator shall terminate if—

(a) he becomes *de jure* or *de facto* unable to perform his functions or for other reasons fails to act without undue delay; and

(b) he withdraws from his office or the parties agree to the termination of his mandate.

(2) If a controversy remains concerning any of the grounds referred to in clause (a) of sub-section (1), a party may, unless otherwise agreed by the parties, apply to the Court to decide on the termination of the mandate.

(3) If, under this section or sub-section (3) of section 13, an arbitrator withdraws from his office or a party agrees to the termination of the mandate of an arbitrator, it shall not imply acceptance of the validity of any ground referred to in this section or sub-section (3) of section 12.

Termination
of mandate
and substi-
tution of
arbitrator.

15. (1) In addition to the circumstances referred to in section 13 or section 14, the mandate of an arbitrator shall terminate—

(a) where he withdraws from office for any reason; or

(b) by or pursuant to agreement of the parties.

(2) Where the mandate of an arbitrator terminates, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

(3) Unless otherwise agreed by the parties, where an arbitrator is replaced under sub-section (2), any hearings previously held may be repeated at the discretion of the arbitral tribunal.

(4) Unless otherwise agreed by the parties, an order or ruling of the arbitral tribunal made prior to the replacement of an arbitrator under this section shall not be invalid solely because there has been a change in the composition of the arbitral tribunal.

CHAPTER IV

Jurisdiction of arbitral tribunals

Competence
of arbitral
tribunal to
rule on its
jurisdiction.

16. (1) The arbitral tribunal may rule on its own jurisdiction, including ruling on any objections with respect to the existence or validity of the arbitration agreement, and for that purpose,—

(a) an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract; and

(b) a decision by the arbitral tribunal that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause.

(2) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defence; however, a party shall not be precluded from raising such a plea merely because that he has appointed, or participated in the appointment of, an arbitrator.

(3) A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings.

(4) The arbitral tribunal may, in either of the cases referred to in sub-section (2) or sub-section (3), admit a later plea if it considers the delay justified.

(5) The arbitral tribunal shall decide on a plea referred to in sub-section (2) or sub-section (3) and, where the arbitral tribunal takes a decision rejecting the plea, continue with the arbitral proceedings and make an arbitral award.

(6) A party aggrieved by such an arbitral award may make an application for setting aside such an arbitral award in accordance with section 34.

17. (1) Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order a party to take any interim measure of protection as the arbitral tribunal may consider necessary in respect of the subject-matter of the dispute.

Interim measures ordered by arbitral tribunal.

(2) The arbitral tribunal may require a party to provide appropriate security in connection with a measure ordered under sub-section (1).

CHAPTER V

Conduct of arbitral proceedings

18. The parties shall be treated with equality and each party shall be given a full opportunity to present his case.

Equal treatment of parties.

5 of 1908.
1 of 1872.

19. (1) The arbitral tribunal shall not be bound by the Code of Civil Procedure, 1908 or the Indian Evidence Act, 1872.

Determination of rules of procedure.

(2) Subject to this Part, the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting its proceedings.

(3) Failing any agreement referred to in sub-section (2), the arbitral tribunal may, subject to this Part, conduct the proceedings in the manner it considers appropriate.

(4) The power of the arbitral tribunal under sub-section (3) includes the power to determine the admissibility, relevance, materiality and weight of any evidence.

20. (1) The parties are free to agree on the place of arbitration.

Place of arbitration.

(2) Failing any agreement referred to in sub-section (1), the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

(3) Notwithstanding sub-section (1) or sub-section (2), the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of documents, goods or other property.

Commencement of
arbitral
proceedings.

21. Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.

Language.

22. (1) The parties are free to agree upon the language or languages to be used in the arbitral proceedings.

(2) Failing any agreement referred to in sub-section (1), the arbitral tribunal shall determine the language or languages to be used in the arbitral proceedings.

(3) The agreement or determination, unless otherwise specified, shall apply to any written statement by a party, any hearing and any arbitral award, decision or other communication by the arbitral tribunal.

(4) The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

Statements
of claim
and defence.

23. (1) Within the period of time agreed upon by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting his claim, the points at issue and the relief or remedy sought, and the respondent shall state his defence in respect of these particulars, unless the parties have otherwise agreed as to the required elements of those statements.

(2) The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.

(3) Unless otherwise agreed by the parties, either party may amend or supplement his claim or defence during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow the amendment or supplement having regard to the delay in making it.

Hearings
and written
proceedings.

24. (1) Unless otherwise agreed by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials:

Provided that the arbitral tribunal shall hold oral hearings, at an appropriate stage of the proceedings, on a request by a party, unless the parties have agreed that no oral hearing shall be held.

(2) The parties shall be given sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purposes of inspection of documents, goods or other property.

(3) All statements, documents or other information supplied to, or applications made to, the arbitral tribunal by one party shall be communicated to the other party, and any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be communicated to the parties.

Default of
a party.

25. Unless otherwise agreed by the parties, where, without showing sufficient cause,—

(a) the claimant fails to communicate his statement of claim in accordance with sub-section (1) of section 23, the arbitral tribunal shall terminate the proceedings;

(b) the respondent fails to communicate his statement of defence in accordance with sub-section (1) of section 23, the arbitral tribunal shall continue the proceedings without treating that failure in itself as an admission of the allegations by the claimant;

(c) a party fails to appear at an oral hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the arbitral award on the evidence before it.

26. (1) Unless otherwise agreed by the parties, the arbitral tribunal may—

(a) appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal; and

(b) require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for his inspection.

(2) Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate in an oral hearing where the parties have the opportunity to put questions to him and to present expert witnesses in order to testify on the points at issue.

(3) Unless otherwise agreed by the parties, the expert shall, on the request of a party, make available to that party for examination all documents, goods or other property in the possession of the expert with which he was provided in order to prepare his report.

27. (1) The arbitral tribunal, or a party with the approval of the arbitral tribunal, may apply to the Court for assistance in taking evidence.

(2) The application shall specify—

(a) the names and addresses of the parties and the arbitrators;

(b) the general nature of the claim and the relief sought;

(c) the evidence to be obtained, in particular,—

(i) the name and address of any person to be heard as witness or expert witness and a statement of the subject-matter of the testimony required;

(ii) the description of any document to be produced or property to be inspected.

(3) The Court may, within its competence and according to its rules on taking evidence, execute the request by ordering that the evidence be provided directly to the arbitral tribunal.

(4) The Court may, while making an order under sub-section (3), issue the same processes to witnesses as it may issue in suits tried before it.

(5) Persons failing to attend in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitral tribunal during the conduct of arbitral proceedings, shall be subject to the like disadvantages, penalties and punishments by order of the Court on the representation of

Expert
appointed
by arbitral
tribunal.

Court
assistance
in taking
evidence.

the arbitral tribunal as they would incur for the like offences in suits tried before the Court.

(6) In this section the expression "Processes" includes summonses and commissions for the examination of witnesses and summonses to produce documents.

CHAPTER VI

Making of arbitral award and termination of proceedings

Rules applicable to substance of dispute.

28. (1) Where the place of arbitration is situate in India,—

(a) in an arbitration other than an international commercial arbitration, the arbitral tribunal shall decide the dispute submitted to arbitration in accordance with the substantive law for the time being in force in India;

(b) in international commercial arbitration,—

(i) the arbitral tribunal shall decide the dispute in accordance with the rules of law designated by the parties as applicable to the substance of the dispute;

(ii) any designation by the parties of the law or legal system of a given country shall be construed, unless otherwise expressed, as directly referring to the substantive law of that country and not to its conflict of laws rules;

(iii) failing any designation of the law under clause (a) by the parties, the arbitral tribunal shall apply the rules of law it considers to be appropriate given all the circumstances surrounding the dispute.

(2) The arbitral tribunal shall decide *ex aequo et bono* or as *amiable compositeur* only if the parties have expressly authorised it to do so.

(3) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

Decision making by panel of arbitrators.

29. (1) Unless otherwise agreed by the parties, in arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made by a majority of all its members.

(2) Notwithstanding sub-section (1), if authorised by the parties or all the members of the arbitral tribunal, questions of procedure may be decided by the presiding arbitrator.

Settlement.

30. (1) It is not incompatible with an arbitration agreement for an arbitral tribunal to encourage settlement of the dispute and, with the agreement of the parties, the arbitral tribunal may use mediation, conciliation or other procedures at any time during the arbitral proceedings to encourage settlement.

(2) If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.

(3) An arbitral award on agreed terms shall be made in accordance with section 31 and shall state that it is an arbitral award.

(4) An arbitral award on agreed terms shall have the same status and effect as any other arbitral award on the substance of the dispute.

31. (1) An arbitral award shall be made in writing and shall be signed by the members of the arbitral tribunal.

Form and contents of arbitral award.

(2) For the purposes of sub-section (1), in arbitral proceedings with more than one arbitrator, the signatures of the majority of all the members of the arbitral tribunal shall be sufficient so long as the reason for any omitted signature is stated.

(3) The arbitral award shall state the reasons upon which it is based, unless—

(a) the parties have agreed that no reasons are to be given, or

(b) the award is an arbitral award on agreed terms under section 30.

(4) The arbitral award shall state its date and the place of arbitration as determined in accordance with section 20 and the award shall be deemed to have been made at that place.

(5) After the arbitral award is made, a signed copy shall be delivered to each party.

(6) The arbitral tribunal may, at any time during the arbitral proceedings, make an interim arbitral award on any matter with respect to which it may make a final arbitral award.

(7) (a) Unless otherwise agreed by the parties, where and in so far as an arbitral award is for the payment of money, the arbitral tribunal may include in the sum for which the award is made interest, at such rate as it deems reasonable, on the whole or any part of the money, for the whole or any part of the period between the date on which the cause of action arose and the date on which the award is made.

(b) A sum directed to be paid by an arbitral award shall, unless the award otherwise directs, carry interest at the rate of eighteen per centum per annum from the date of the award to the date of payment.

(8) Unless otherwise agreed by the parties,—

(a) the costs of an arbitration shall be fixed by the arbitral tribunal;

(b) the arbitral tribunal shall specify—

(i) the party entitled to costs,

(ii) the party who shall pay the costs,

(iii) the amount of costs or method of determining that amount, and

(iv) the manner in which the costs shall be paid,

Explanation.—For the purpose of clause (a), "costs" means reasonable costs relating to—

(i) the fees and expenses of the arbitrators and witnesses,

(ii) legal fees and expenses,

(iii) any administration fees of the institution supervising the arbitration, and

(iv) any other expenses incurred in connection with the arbitral proceedings and the arbitral award.

Termination
of proce-
dings.

32. (1) The arbitral proceedings shall be terminated by the final arbitral award or by an order of the arbitral tribunal under sub-section (2).

(2) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings where—

(a) the claimant withdraws his claim, unless the respondent objects to the order and the arbitral tribunal recognises a legitimate interest on his part in obtaining a final settlement of the dispute,

(b) the parties agree on the termination of the proceedings, or

(c) the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

(3) Subject to section 33 and sub-section (4) of section 34, the mandate of the arbitral tribunal shall terminate with the termination of the arbitral proceedings.

Correction
and inter-
pretation of
award;
additional
award.

33. (1) Within thirty days from the receipt of the arbitral award, unless another period of time has been agreed upon by the parties—

(a) a party, with notice to the other party, may request the arbitral tribunal to correct any computation errors, any clerical or typographical errors or any other errors of a similar nature occurring in the award;

(b) if so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award.

(2) If the arbitral tribunal considers the request made under sub-section (1) to be justified, it shall make the correction or give the interpretation within thirty days from the receipt of the request and the interpretation shall form part of the arbitral award.

(3) The arbitral tribunal may correct any error of the type referred to in clause (a) of sub-section (1), on its own initiative, within thirty days from the date of the arbitral award.

(4) Unless otherwise agreed by the parties, a party with notice to the other party, may request, within thirty days from the receipt of the arbitral award, the arbitral tribunal to make an additional arbitral award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

(5) If the arbitral tribunal considers the request made under sub-section (4) to be justified, it shall make the additional arbitral award within sixty days from the receipt of such request.

(6) The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, give an interpretation or make an additional arbitral award under sub-section (2) or sub-section (5).

(7) Section 31 shall apply to a correction or interpretation of the arbitral award or to an additional arbitral award made under this section.

CHAPTER VII

Recourse against arbitral award

34. (1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).

Application
for setting
aside
arbitral
award.

(2) An arbitral award may be set aside by the Court only if—

(a) the party making the application furnishes proof that—

(i) a party was under some incapacity, or

(ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law for the time being in force; or

(iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or

(iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration:

Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or

(v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or

(b) the Court finds that—

(i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or

(ii) the arbitral award is in conflict with the public policy of India.

Explanation.—Without prejudice to the generality of sub-clause (ii), it is hereby declared, for the avoidance of any doubt, that an award is in conflict with the public policy of India if the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81.

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.

(4) On receipt of an application under sub-section (1), the Court may, where it is

appropriate and it is so requested by a party, adjourn the proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the opinion of arbitral tribunal will eliminate the grounds for setting aside the arbitral award.

CHAPTER VIII

Finality and enforcement of arbitral awards

Finality of
arbitral
awards.

35. Subject to this Part an arbitral award shall be final and binding on the parties and persons claiming under them respectively.

Enforce-
ment.

36. Where the time for making an application to set aside the arbitral award under award shall be endorsed under the Code of Civil Procedure, 1908 in the same manner as if it were a decree of the Court.

5 of 1908.

CHAPTER IX

Appeals

Appealable
orders.

37. (1) An appeal shall lie from the following orders (and from no others) to the Court authorised by law to hear appeals from original decrees of the Court passing the order, namely:—

- (a) granting or refusing to grant any measure under section 9;
- (b) setting aside or refusing to set aside an arbitral award under section 34.
- (2) Appeal shall also lie to a court from an order of the arbitral tribunal—
 - (a) accepting the plea referred to in sub-section (2) or sub-section (3) of section 16; or
 - (b) granting or refusing to grant an interim measure under section 17.

(3) No second appeal shall lie from an order passed in appeal under this section, but nothing in this section shall affect or take away any right to appeal to the Supreme Court.

CHAPTER X

Miscellaneous

Deposits.

38. (1) The arbitral tribunal may fix the amount of the deposit or supplementary deposit, as the case may be, as an advance for the costs referred to in sub-section (3) of section 31, which it expects will be incurred in respect of the claim submitted to it:

Provided that where, apart from the claim, a counter-claim has been submitted to the arbitral tribunal, it may fix separate amount of deposit for the claim and counter-claim.

(2) The deposit referred to in sub-section (1) shall be payable in equal shares by the parties:

Provided that where one party fails to pay his share of the deposit, the other party may pay that share:

Provided further that where the other party also does not pay the aforesaid share in respect of the claim or the counter-claim, the arbitral tribunal may suspend or terminate the arbitral proceedings in respect of such claim or counter-claim, as the case may be.

(3) Upon termination of the arbitral proceedings, the arbitral tribunal shall render an accounting to the parties of the deposits received and shall return any unexpended balance to the party or parties, as the case may be.

39. (1) Subject to the provisions of sub-section (2) and to any provision to the contrary in the arbitration agreement, the arbitral tribunal shall have a lien on the arbitral award for any unpaid costs of the arbitration.

Lien on
arbitral
award and
deposits as
to costs.

(2) If in any case an arbitral tribunal refuses to deliver its award except on payment of the costs demanded by it, the Court may, on an application in this behalf, order that the arbitral tribunal shall deliver the arbitral award to the applicant on payment into Court by the applicant of the costs demanded, and shall, after such inquiry, if any, as it thinks fit, further order that out of the money so paid into Court there shall be paid to the arbitral tribunal by way of costs such sum as the Court may consider reasonable and that the balance of the money, if any, shall be refunded to the applicant.

(3) An application under sub-section (2) may be made by any party unless the fees demanded have been fixed by written agreement between him and the arbitral tribunal, and the arbitral tribunal shall be entitled to appear and be heard on any such application.

(4) The Court may make such orders as it thinks fit respecting the costs of the arbitration where any question arises respecting such costs and the arbitral award contains no sufficient provision concerning them.

40. (1) An arbitration agreement shall not be discharged by the death of any party thereto either as respects the deceased or as respects any other party, but shall in such event be enforceable by or against the legal representative of the deceased.

Arbitration
agreement
not to be
discharged
by death of
party
thereto.

(2) The mandate of an arbitrator shall not be terminated by the death of any party by whom he was appointed.

(3) Nothing in this section shall affect the operation of any law by virtue of which any right of action is extinguished by the death of a person.

41. (1) Where it is provided by a term in a contract to which an insolvent is a party that any dispute arising thereout or in connection therewith shall be submitted to arbitration, the said term shall, if the receiver adopts the contract, be enforceable by or against him so far as it relates to any such dispute.

Provisions
in case of
insolvency.

(2) Where a person who has been adjudged an insolvent had, before the commencement of the insolvency proceedings, become a party to an arbitration agreement, and any matter to which the agreement applies is required to be determined in connection with, or for the purposes of, the insolvency proceedings, then, if the case is one to which sub-section (1) does not apply, any other party or the receiver may apply to the judicial authority having jurisdiction in the insolvency proceedings for an order directing that the matter in question shall be submitted to arbitration in accordance with the arbitration agreement, and the judicial authority may, if it is of opinion that, having regard to all the circumstances of the case, the matter ought to be determined by arbitration, make an order accordingly.

(3) In this section the expression "receiver" includes an Official Assignee.

42. Notwithstanding anything contained elsewhere in this Part or in any other law for the time being in force, where with respect to an arbitration agreement any application under this Part has been made in a Court, that Court alone shall have jurisdiction over

Jurisdic-
tion.

the arbitral proceedings and all subsequent applications arising out of that agreement and the arbitral proceedings shall be made in that Court and in no other Court.

Limitations.

43. (1) The Limitation Act, 1963, shall apply to arbitrations as it applies to, proceedings in court.

36 of 1963.

(2) For the purposes of this section and the Limitation Act, 1963, an arbitration shall be deemed to have commenced on the date referred in section 21.

36 of 1963.

(3) Where an arbitration agreement to submit future disputes to arbitration provides that any claim to which the agreement applies shall be barred unless some step to commence arbitral proceedings is taken within a time fixed by the agreement, and a dispute arises to which the agreement applies, the Court, if it is of opinion that in the circumstances of the case undue hardship would otherwise be caused, and notwithstanding that the time so fixed has expired, may on such terms, if any, as the justice of the case may require, extend the time for such period as it thinks proper.

(4) Where the Court orders that an arbitral award be set aside, the period between the commencement of the arbitration and the date of the order of the Court shall be excluded in computing the time prescribed by the Limitation Act, 1963, for the commencement of the proceedings (including arbitration) with respect to the dispute so submitted.

36 of 1963.

PART II

ENFORCEMENT OF CERTAIN FOREIGN AWARDS

CHAPTER I

New York Convention Awards

Definition.

44. In this Chapter, unless the context otherwise requires, "foreign award" means an arbitral award on differences between persons arising out of legal relationships, whether contractual or not, considered as commercial under the law in force in India, made on or after the 11th day of October, 1960—

(a) in pursuance of an agreement in writing for arbitration to which the Convention set forth in the First Schedule applies, and

(b) in one of such territories as the Central Government, being satisfied that reciprocal provisions have been made may, by notification in the Official Gazette, declare to be territories to which the said Convention applies.

Power of judicial authority to refer parties to arbitration.

45. Notwithstanding anything contained in Part I or in the Code of Civil Procedure, 1908, a judicial authority, when seized of an action in a matter in respect of which the parties have made an agreement referred to in section 44, shall, at the request of one of the parties or any person claiming through or under him, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed.

5 of 1908.

When foreign award binding.

46. Any foreign award which would be enforceable under this Chapter shall be treated as binding for all purposes on the persons as between whom it was made, and may accordingly be relied on by any of those persons by way of defence, set off or otherwise in any legal proceedings in India and any references in this Chapter to enforcing a foreign award shall be construed as including references to relying on an award.

47. (1) The party applying for the enforcement of a foreign award shall, at the time of the application, produce before the court— Evidence.

(a) the original award or a copy thereof, duly authenticated in the manner required by the law of the country in which it was made;

(b) the original agreement for arbitration or a duly certified copy thereof; and

(c) such evidence as may be necessary to prove that the award is a foreign award.

(2) If the award or agreement to be produced under sub-section (1) is in a foreign language, the party seeking to enforce the award shall produce a translation into English certified as correct by a diplomatic or consular agent of the country to which that party belongs or certified as correct in such other manner as may be sufficient according to the law in force in India.

Explanation.—In this section and all the following sections of this Chapter, "Court" means the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction; having jurisdiction over the subject-matter of the award if the same had been the subject-matter of a suit, but does not include any civil court of a grade inferior to such principal Civil Court, or any Court of Small Causes.

48. (1) Enforcement of a foreign award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the court proof that—

Conditions
for
enforcement
of foreign
awards.

(a) the parties to the agreement referred to in section 44 were, under the law applicable to them, under some incapacity, or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or

(b) the party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or

(c) the award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration;

Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be enforced; or

(d) the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or

(e) the award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made.

(2) Enforcement of an arbitral award may also be refused if the Court finds that—

(a) the subject-matter of the difference is not capable of settlement by arbitration under the law of India; or

(b) the enforcement of the award would be contrary to the public policy of India.

Explanation.—Without prejudice to the generality of clause (b), it is hereby declared, for the avoidance of any doubt, that an award is in conflict with the public policy of India if the making of the award was induced or affected by fraud or corruption.

(3) If an application for the setting aside or suspension of the award has been made to a competent authority referred to in clause (e) of sub-section (1) the Court may, if it considers it proper, adjourn the decision on the enforcement of the award and may, also, on the application of the party claiming enforcement of the award, order the other party to give suitable security.

Enforcement
of foreign
awards.

49. Where the Court is satisfied that the foreign award is enforceable under this Chapter, the award shall be deemed to be a decree of that Court.

Appealable
orders.

50. (1) An appeal shall lie from the order refusing to—

(a) refer the parties to arbitration under section 45;

(b) enforce a foreign award under section 48,

to the court authorised by law to hear appeals from such order.

(2) No second appeal shall lie from an order passed in appeal under this section, but nothing in this section shall affect or take away any right to appeal to the Supreme Court.

Saving.

51. Nothing in this Chapter shall prejudice any rights which any person would have had of enforcing in India of any award or of availing himself in India of any award if this Chapter had not been enacted.

Chapter II
not to
apply.

52. Chapter II of this Part shall not apply in relation to foreign awards to which this Chapter applies.

CHAPTER II

Geneva Convention Awards

Interpre-
tation.

53. In this Chapter "foreign award" means an arbitral award on differences relating to matters considered as commercial under the law in force in India made after the 28th day of July, 1924,—

(a) in pursuance of an agreement for arbitration to which the Protocol set forth in the Second Schedule applies, and

(b) between persons of whom one is subject to the jurisdiction of some one of such Powers as the Central Government, being satisfied that reciprocal provisions have been made, may, by notification in the Official Gazette, declare to be parties to the Convention set forth in the Third Schedule, and of whom the other is subject to the jurisdiction of some other of the Powers aforesaid, and

(c) in one of such territories as the Central Government, being satisfied that reciprocal provisions have been made, may, by like notification, declare to be territories to which the said Convention applies,

and for the purposes of this Chapter an award shall not be deemed to be final if any proceedings for the purpose of contesting the validity of the award are pending in the

country in which it was made.

5 of 1908.

54. Notwithstanding anything contained in Part I or in the Code of Civil Procedure, 1908, a judicial authority, on being seized of a dispute regarding a contract made between persons to whom section 53 applies and including an arbitration agreement, whether referring to present or future differences, which is valid under that section and capable of being carried into effect, shall refer the parties on the application of either of them or any person claiming through or under him to the decision of the arbitrators and such reference shall not prejudice the competence of the judicial authority in case the agreement or the arbitration cannot proceed or becomes inoperative.

Power of
judicial
authority
to refer
parties to
arbitration.

55. Any foreign award which would be enforceable under this Chapter shall be treated as binding for all purposes on the persons as between whom it was made, and may accordingly be relied on by any of those persons by way of defence, set off or otherwise in any legal proceedings in India and any references in this Chapter to enforcing a foreign award shall be construed as including references to relying on an award.

Foreign
awards
when
binding.

56. (1) The party applying for the enforcement of a foreign award shall, at the time of application produce before the Court—

Evidence.

(a) the original award or a copy thereof duly authenticated in the manner required by the law of the country in which it was made;

(b) evidence proving that the award has become final; and

(c) such evidence as may be necessary to prove that the conditions mentioned in clauses (a) and (c) of sub-section (1) of section 57 are satisfied.

(2) Where any document requiring to be produced under sub-section (1) is in a foreign language, the party seeking to enforce the award shall produce a translation into English certified as correct by a diplomatic or consular agent of the country to which that party belongs or certified as correct in such other manner as may be sufficient according to the law in force in India.

Explanation.—In this section and all the following sections of this Chapter, "Court" means the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction over the subject-matter of the award if the same had been the subject-matter of a suit, but does not include any civil court of a grade inferior to such principal Civil Court, or any Court of Small Causes.

57. (1) In order that a foreign award may be enforceable under this Chapter, it shall be necessary that—

Conditions
for
enforcement
of foreign
awards.

(a) the award has been made in pursuance of a submission to arbitration which is valid under the law applicable thereto;

(b) the subject-matter of the award is capable of settlement by arbitration under the law of India;

(c) the award has been made by the arbitral tribunal provided for in the submission to arbitration or constituted in the manner agreed upon by the parties and in conformity with the law governing the arbitration procedure;

(d) the award has become final in the country in which it has been made, in the sense that it will not be considered as such if it is open to opposition or appeal or

if it is proved that any proceedings for the purpose of contesting the validity of the award are pending;

(e) the enforcement of the award is not contrary to the public policy or the law of India.

Explanation.—Without prejudice to the generality of clause (e), it is hereby declared, for the avoidance of any doubt, that an award is in conflict with the public policy of India if the making of the award was induced or affected by fraud or corruption.

(2) Even if the conditions laid down in sub-section (1) are fulfilled, enforcement of the award shall be refused if the Court is satisfied that—

(a) the award has been annulled in the country in which it was made;

(b) the party against whom it is sought to use the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case; or that, being under a legal incapacity, he was not properly represented;

(c) the award does not deal with the differences contemplated by or falling within the terms of the submission to arbitration or that it contains decisions on matters beyond the scope of the submission to arbitration:

Provided that if the award has not covered all the differences submitted to the arbitral tribunal, the Court may, if it thinks fit, postpone such enforcement or grant it subject to such guarantee as the Court may decide.

(3) If the party against whom the award has been made proves that under the law governing the arbitration procedure there is a ground, other than the grounds referred to in clauses (a) and (c) of sub-section (1) and clauses (b) and (c) of sub-section (2) entitling him to contest the validity of the award, the Court may, if it thinks fit, either refuse enforcement of the award or adjourn the consideration thereof, giving such party a reasonable time within which to have the award annulled by the competent tribunal.

Enforcement
of foreign
awards.

58. Where the Court is satisfied that the foreign award is enforceable under this Chapter, the award shall be deemed to be a decree of the Court.

Appealable
orders.

59. (1) An appeal shall lie from the order refusing—

(a) to refer the parties to arbitration under section 54; and

(b) to enforce a foreign award under section 57,

to the court authorised by law to hear appeals from such order.

(2) No second appeal shall lie from an order passed in appeal under this section, but nothing in this section shall affect or take away any right to appeal to the Supreme Court.

Saving.

60. Nothing in this Chapter shall prejudice any rights which any person would have had of enforcing in India of any award or of availing himself in India of any award if this Chapter had not been enacted.

PART III

CONCILIATION

61. (1) Save as otherwise provided by any law for the time being in force and unless the parties have otherwise agreed, this Part shall apply to conciliation of disputes arising out of legal relationship, whether contractual or not and to all proceedings relating thereto. Application and scope.

(2) This Part shall not apply where by virtue of any law for the time being in force certain disputes may not be submitted to conciliation.

62. (1) The party initiating conciliation shall send to the other party a written invitation to conciliate under this Part, briefly identifying the subject of the dispute. Commencement of conciliation proceedings.

(2) Conciliation proceedings shall commence when the other party accepts in writing the invitation to conciliate.

(3) If the other party rejects the invitation, there will be no conciliation proceedings.

(4) If the party initiating conciliation does not receive a reply within thirty days from the date on which he sends the invitation, or within such other period of time as specified in the invitation, he may elect to treat this as a rejection of the invitation to conciliate and if he so elects, he shall inform in writing the other party accordingly.

63. (1) There shall be one conciliator unless the parties agree that there shall be two or three conciliators. Number of conciliators.

(2) Where there is more than one conciliator, they ought, as a general rule, to act jointly.

64. (1) Subject to sub-section (2),—

Appointment of conciliators.

(a) in conciliation proceedings with one conciliator, the parties may agree on the name of a sole conciliator;

(b) in conciliation proceedings with two conciliators, each party may appoint one conciliator;

(c) in conciliation proceedings with three conciliators, each party may appoint one conciliator and the parties may agree on the name of the third conciliator who shall act as the presiding conciliator.

(2) Parties may enlist the assistance of a suitable institution or person in connection with the appointment of conciliators, and in particular,—

(a) a party may request such an institution or person to recommend the names of suitable individuals to act as conciliator; or

(b) the parties may agree that the appointment of one or more conciliators be made directly by such an institution or person:

Provided that in recommending or appointing individuals to act as conciliator, the institution or person shall have regard to such considerations as are likely to secure the appointment of an independent and impartial conciliator and, with respect to a sole or third conciliator, shall take into account the advisability of appointing a conciliator of a nationality other than the nationalities of the parties.

Submission
of state-
ments to
conciliator.

65. (1) The conciliator, upon his appointment, may request each party to submit to him a brief written statement describing the general nature of the dispute and the points at issue. Each party shall send a copy of such statement to the other party.

(2) The conciliator may request each party to submit to him a further written statement of his position and the facts and grounds in support thereof, supplemented by any documents and other evidence that such party deems appropriate. The party shall send a copy of such statement, documents and other evidence to the other party.

(3) At any stage of the conciliation proceedings, the conciliator may request a party to submit to him such additional information as he deems appropriate.

Explanation.—In this section and all the following sections of this Part, the term "conciliator" applies to a sole conciliator, two or three conciliators as the case may be.

Conciliator
not bound
by certain
enactments.

66. The conciliator is not bound by the Code of Civil Procedure, 1908 or the Indian Evidence Act, 1872.

5 of 1908.
1 of 1872.

Role of
conciliator.

67. (1) The conciliator shall assist the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute.

(2) The conciliator shall be guided by principles of objectivity, fairness and justice, giving consideration to, among other things, the rights and obligations of the parties, the usages of the trade concerned and the circumstances surrounding the dispute, including any previous business practices between the parties.

(3) The conciliator may conduct the conciliation proceedings in such a manner as he considers appropriate, taking into account the circumstances of the case, the wishes the parties may express, including any request by a party that the conciliator hear oral statements, and the need for a speedy settlement of the dispute.

(4) The conciliator may, at any stage of the conciliation proceedings, make proposals for a settlement of the dispute. Such proposals need not be in writing and need not be accompanied by a statement of the reasons therefor.

Adminis-
trative
assistance.

68. In order to facilitate the conduct of the conciliation proceedings, the parties, or the conciliator with the consent of the parties, may arrange for administrative assistance by a suitable institution or person.

Communi-
cation
between
conciliator
and parties.

69. (1) The conciliator may invite the parties to meet him or may communicate with them orally or in writing. He may meet or communicate with the parties together or with each of them separately.

(2) Unless the parties have agreed upon the place where meetings with the conciliator are to be held, such place shall be determined by the conciliator, after consultation with the parties, having regard to the circumstances of the conciliation proceedings.

Disclosure
of infor-
mation.

70. When the conciliator receives factual information concerning the dispute from a party, he shall disclose the substance of that information to the other party in order that the other party may have the opportunity to present any explanation which he considers appropriate:

Provided that when a party gives any information to the conciliator subject to a specific condition that it be kept confidential, the conciliator shall not disclose that

information to the other party.

71. The parties shall in good faith co-operate with the conciliator and, in particular, shall endeavour to comply with requests by the conciliator to submit written materials, provide evidence and attend meetings.

Co-operation of parties with conciliator.

72. Each party may, on his own initiative or at the invitation of the conciliator, submit to the conciliator suggestions for the settlement of the dispute.

Suggestions by parties for settlement of dispute.

73. (1) When it appears to the conciliator that there exist elements of a settlement which may be acceptable to the parties, he shall formulate the terms of a possible settlement and submit them to the parties for their observations. After receiving the observations of the parties, the conciliator may reformulate the terms of a possible settlement in the light of such observations.

Settlement agreement.

(2) If the parties reach agreement on a settlement of the dispute, they may draw up and sign a written settlement agreement. If requested by the parties, the conciliator may draw up, or assist the parties in drawing up, the settlement agreement.

(3) When the parties sign the settlement agreement, it shall be final and binding on the parties and persons claiming under them respectively.

(4) The conciliator shall authenticate the settlement agreement and furnish a copy thereof to each of the parties.

74. The settlement agreement shall have the same status and effect as if it is an arbitral award on agreed terms on the substance of the dispute rendered by an arbitral tribunal under section 30.

Status and effect of settlement agreement.

75. Notwithstanding anything contained in any other law for the time being in force, the conciliator and the parties shall keep confidential all matters relating to the conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement.

Confidentiality.

76. The conciliation proceedings shall be terminated—

Termination of conciliation proceedings.

(a) by the signing of the settlement agreement by the parties, on the date of the agreement; or

(b) by a written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration; or

(c) by a written declaration of the parties addressed to the conciliator to the effect that the conciliation proceedings are terminated, on the date of the declaration; or

(d) by a written declaration of a party to the other party and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of the declaration.

Resort to
arbitral or
judicial
proceedings.

77. The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject-matter of the conciliation proceedings except that a party may initiate arbitral or judicial proceedings where, in his opinion, such proceedings are necessary for preserving his rights.

Costs.

78. (1) Upon termination of the conciliation proceedings, the conciliator shall fix the costs of the conciliation and give written notice thereof to the parties.

(2) For the purpose of sub-section (1), "costs" means reasonable costs relating to—

(a) the fee and expenses of the conciliator and witnesses requested by the conciliator with the consent of the parties;

(b) any expert advice requested by the conciliator with the consent of the parties;

(c) any assistance provided pursuant to clause (b) of sub-section (2) of section 64 and section 68;

(d) any other expenses incurred in connection with the conciliation proceedings and the settlement agreement.

(3) The costs shall be borne equally by the parties unless the settlement agreement provides for a different apportionment. All other expenses incurred by a party shall be borne by that party.

Deposits.

79. (1) The conciliator may direct each party to deposit an equal amount as an advance for the costs referred to in sub-section (2) of section 78 which he expects will be incurred.

(2) During the course of the conciliation proceedings, the conciliator may direct supplementary deposits in an equal amount from each party.

(3) If the required deposits under sub-sections (1) and (2) are not paid in full by both parties within thirty days, the conciliator may suspend the proceedings or may make a written declaration of termination of the proceedings to the parties, effective on the date of that declaration.

(4) Upon termination of the conciliation proceedings, the conciliator shall render an accounting to the parties of the deposits received and shall return any unexpended balance to the parties.

Role of
conciliator
in other
proceedings.

80. Unless otherwise agreed by the parties,—

(a) the conciliator shall not act as an arbitrator or as a representative or counsel of a party in any arbitral or judicial proceeding in respect of a dispute that is the subject of the conciliation proceedings;

(b) the conciliator shall not be presented by the parties as a witness in any arbitral or judicial proceedings.

Admissi-
bility of
evidence in
other
proceedings.

81. The parties shall not rely on or introduce as evidence in arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the conciliation proceedings,—

(a) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;

(b) admissions made by the other party in the course of the conciliation proceedings;

(c) proposals made by the conciliator;

(d) the fact that the other party had indicated his willingness to accept a proposal for settlement made by the conciliator.

PART IV

SUPPLEMENTARY PROVISIONS

82. The High Court may make rules consistent with this Act as to all proceedings before the Court under this Act.

Power of High Court to make rules.

83. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Removal of difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

84. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be, after it is made before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

6 of 1937.

10 of 1940.

45 of 1961.

85. (1) The Arbitration (Protocol and Convention) Act, 1937, the Arbitration Act, 1940 and the Foreign Awards (Recognition and Enforcement) Act, 1961 are hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal,—

(a) the provisions of the said enactments shall apply in relation to arbitral proceedings which commenced before this Act came into force unless otherwise agreed by the parties but this Act shall apply in relation to arbitral proceedings which commenced on or after this Act comes into force;

(b) all rules made and notifications published, under the said enactments shall, to the extent to which they are not repugnant to this Act, be deemed respectively to have been made or issued under this Act.

Ord.

27 of 1996

86. (1) The Arbitration and Conciliation (Third) Ordinance, 1996 is hereby repealed.

Repeal and saving.

(2) Notwithstanding such repeal, any order, rule, notification or scheme made or anything done or any action taken in pursuance of any provision of the said Ordinance shall be deemed to have been made, done or taken under the corresponding provisions of this Act.

THE FIRST SCHEDULE

(See section 44)

CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

ARTICLE I

1. This Convention shall apply to the recognition and enforcement of arbitral awards made in the territory of a State other than the State where the recognition and enforcement of such awards are sought, and arising out of differences between persons, whether physical or legal. It shall also apply to arbitral awards not considered as domestic awards in the State where their recognition and enforcement are sought.

2. The term "arbitral awards" shall include not only awards made by arbitrators appointed for each case but also those made by permanent arbitral bodies to which the parties have submitted.

3. When signing, ratifying or acceding to this Convention, or notifying extension under article X hereof, any State may on the basis of reciprocity declare that it will apply the Convention to the recognition and enforcement of awards made only in the territory of another Contracting State. It may also declare that it will apply the Convention only to differences arising out of legal relationships, whether contractual or not, which are considered as commercial under the national law of the State making such declaration.

ARTICLE II

1. Each Contracting State shall recognise an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen or which may arise between them in respect of defined legal relationship, whether contractual or not, concerning a subject-matter capable of settlement by arbitration.

2. The term "agreement in writing" shall include an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams.

3. The court of a Contracting State, when seized of an action in a matter in respect of which the parties have made an agreement within the meaning of this article, shall, at the request of one of the parties, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed.

ARTICLE III

Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.

ARTICLE IV

1. To obtain the recognition and enforcement mentioned in the preceding article, the party applying for recognition and enforcement shall, at the time of the application, supply:—

- (a) the duly authenticated original award or a duly certified copy thereof;
- (b) the original agreement referred to in article II or a duly certified copy thereof.

2. If the said award or agreement is not made in an official language of the country in which the award is relied upon, the party applying for recognition and enforcement of the award shall produce a translation of these documents into such language. The translation shall be certified by an official or sworn translator or by a diplomatic or consular agent.

ARTICLE V

1. Recognition and enforcement of the award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that—

(a) the parties to the agreement referred to in article II were, under the law applicable to them, under some incapacity, or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or

(b) the party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case; or

(c) the award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognised and enforced; or

(d) the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or

(e) the award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made.

2. Recognition and enforcement of an arbitral award may also be refused if the competent authority in the country where recognition and enforcement is sought finds that—

(a) the subject-matter of the difference is not capable of settlement by arbitration under the law of that country; or

(b) the recognition or enforcement of the award would be contrary to the public policy of that country.

ARTICLE VI

If an application for the setting aside or suspension of the award has been made to a competent authority referred to in article V(1)(e), the authority before which the award is sought to be relied upon may, if it considers it proper, adjourn the decision on the enforcement of the award and may also, on the application of the party claiming enforcement of the award, order the other party to give suitable security.

ARTICLE VII

1. The provisions of the present Convention shall not affect the validity of multilateral or bilateral agreements concerning the recognition and enforcement of arbitral awards entered into by the Contracting States nor deprive any interested party of any right he may have to avail himself of an arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon.

2. The Geneva Protocol on Arbitration Clauses of 1923 and the Geneva Convention on the Execution of Foreign Arbitral Awards of 1927 shall cease to have effect between Contracting States on their becoming bound and to the extent that they become bound by this Convention.

ARTICLE VIII

1. This Convention shall be open until 31st December, 1958 for signature on behalf of any Member of the United Nations and also on behalf of any other State which is or hereafter becomes member of any specialised agency of the United Nations, or which is or hereafter becomes a party to the Statute of the International Court of Justice, or any other State to which an invitation has been addressed by the General Assembly of the United Nations.

2. This Convention shall be ratified and the instrument of ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE IX

1. This Convention shall be open for accession to all States referred to in article VIII.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE X

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.

2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.

3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.

ARTICLE XI

In the case of a federal or non-unitary State, the following provisions shall apply:—

(a) with respect of these articles of this Convention that come within the legislative jurisdiction of the federal authority, the obligations of the federal Government shall to this extent be the same as those of Contracting States which are not federal States;

(b) with respect to those articles of this Convention that come within the legislative jurisdiction of constituent States or provinces which are not, under the constitutional system of the federation, bound to take legislative action, the federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of constituent States or provinces at the earliest possible moment;

(c) a federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the federation and its constituent units in regard to any particular provision of this Convention, showing the extent to which effect has been given to that provision by legislative or other action.

ARTICLE XII

1. This Convention shall come into force on the ninetieth day following the date of deposit of the third instrument of ratification or accession.

2. For each State ratifying or acceding to this Convention after the deposit of the third instrument of ratification or accession, this Convention shall enter into force on the ninetieth day after deposit by such State of its instrument of ratification or accession.

ARTICLE XIII

1. Any Contracting State may denounce this Convention by a written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Any State which has made a declaration or notification under article X may, at any time thereafter, by notification to the Secretary-General of the United Nations, declare that this Convention shall cease to extend to the territory concerned one year after the date of the receipt of the notification by the Secretary-General.

3. This Convention shall continue to be applicable to arbitral awards in respect of which recognition or enforcement proceedings have been instituted before the denunciation takes effect.

ARTICLE XIV

A Contracting State shall not be entitled to avail itself of the present Convention against other Contracting States except to the extent that it is itself bound to apply the Convention.

ARTICLE XV

The Secretary-General of the United Nations shall notify the States contemplated in article VIII of the following:—

- (a) signatures and ratifications in accordance with article VIII;
- (b) accessions in accordance with article IX;
- (c) declarations and notifications under articles I, X and XI;
- (d) the date upon which this Convention enters into force in accordance with article XII;
- (e) denunciations and notifications in accordance with article XIII.

ARTICLE XVI

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit a certified copy of this Convention to the States contemplated in article XIII.

THE SECOND SCHEDULE

(See section 53)

PROTOCOL ON ARBITRATION CLAUSES

The undersigned, being duly authorised, declare that they accept, on behalf of the countries which they represent, the following provisions:—

1. Each of the Contracting States recognises the validity of an agreement whether relating to existing or future differences between parties subject respectively to the jurisdiction of different Contracting States by which the parties to a contract agree to submit to arbitration all or any differences that may arise in connection with such contract relating to commercial matters or to any other matter capable of settlement by arbitration, whether or not the arbitration is to take place in a country to whose jurisdiction none of the parties is subject.

Each Contracting State reserves the right to limit the obligation mentioned above to contracts which are considered as commercial under its national law. Any Contracting State which avails itself of this right will notify the Secretary-General of the League of Nations in order that the other Contracting States may be so informed.

2. The arbitral procedure, including the constitution of the Arbitral Tribunal, shall be governed by the will of the parties and by the law of the country in whose territory the arbitration takes place.

The Contracting States agree to facilitate all steps in the procedure which require to be taken in their own territories, in accordance with the provisions of their law governing arbitral procedure applicable to existing differences.

3. Each Contracting State undertakes to ensure the execution by its authorities and in accordance with the provisions of its national laws of arbitral awards made in its own territory under the preceding articles.

4. The Tribunals of the Contracting Parties, on being seized of a dispute regarding a contract made between persons to whom Article 1 applies and including an Arbitration Agreement whether referring to present or future differences which is valid in virtue of the said article and capable of being carried into effect, shall refer the parties on the application of either of them to the decision of the Arbitrators.

Such reference shall not prejudice the competence of the judicial tribunals in case the agreement or the arbitration cannot proceed or becomes inoperative.

5. The present Protocol, which shall remain open for signature by all States, shall be ratified. The ratification shall be deposited as soon as possible with the Secretary-General of the League of Nations, who shall notify such deposit to all the Signatory States.

6. The present Protocol will come into force as soon as two ratifications have been deposited. Thereafter it will take effect, in the case of each Contracting State, one month after the notification by the Secretary-General of the deposit of its ratification.

7. The present Protocol may be denounced by any Contracting State on giving one year's notice. Denunciation shall be effected by a notification addressed to the Secretary-General of the League, who will immediately transmit copies of such notification to all the other Signatory States and inform them of the date on which it was received. The denunciation shall take effect one year after the date on which it was notified to the Secretary-General, and shall operate only in respect of the notifying State.

8. The Contracting States may declare that their acceptance of the present Protocol does not include any or all of the undermentioned territories: that is to say, their colonies, overseas possessions or territories, protectorates or the territories over which they exercise a mandate.

The said States may subsequently adhere separately on behalf of any territory thus excluded. The Secretary-General of the League of Nations shall be informed as soon as possible of such adhesions. He shall notify such adhesions to all Signatory States. They will take effect one month after the notification by the Secretary-General to all Signatory States.

The Contracting States may also denounce the Protocol separately on behalf of any of the territories referred to above. Article 7 applies to such denunciation.

THE THIRD SCHEDULE

(See section 53)

CONVENTION ON THE EXECUTION OF FOREIGN ARBITRAL AWARDS

Article 1.—(1) In the territories of any High Contracting Party to which the present Convention applies, an arbitral award made in pursuance of an agreement, whether relating to existing or future differences (hereinafter called "a submission to arbitration") covered by the Protocol on Arbitration Clauses opened at Geneva on September 24th,

1923, shall be recognised as binding and shall be enforced in accordance with the rules of the procedure of the territory where the award is relied upon, provided that the said award has been made in a territory of one of the High Contracting Parties to which the present Convention applies and between persons who are subject to the jurisdiction of one of the High Contracting Parties.

(2) To obtain such recognition or enforcement, it shall, further, be necessary:—

(a) that the award has been made in pursuance of a submission to arbitration which is valid under the law applicable thereto;

(b) that the subject-matter of the award is capable of settlement by arbitration under the law of the country in which the award is sought to be relied upon;

(c) that the award has been made by the Arbitral Tribunal provided for in the submission to arbitration or constituted in the manner agreed upon by the parties and in conformity with the law governing the arbitration procedure;

(d) that the award has become final in the country in which it has been made, in the sense that it will not be considered as such if it is open to opposition, appeal or *pourvoi en cassation* (in the countries where such forms of procedure exist) or if it is proved that any proceedings for the purpose of contesting the validity of the award are pending;

(e) that the recognition or enforcement of the award is not contrary to the public policy or to the principles of the law of the country in which it is sought to be relied upon.

Article 2.—Even if the conditions laid down in Article 1 hereof are fulfilled, recognition and enforcement of the award shall be refused if the Court is satisfied:—

(a) that the award has been annulled in the country in which it was made;

(b) that the party against whom it is sought to use the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case; or that, being under a legal incapacity, he was not properly represented;

(c) that the award does not deal with the differences contemplated by or falling within the terms of the submission to arbitration or that it contains decisions on matters beyond the scope of the submission to arbitration.

If the award has not covered all the questions submitted to the arbitral tribunal, the competent authority of the country where recognition or enforcement of the award is sought can, if it thinks fit, postpone such recognition or enforcement or grant it subject to such guarantee as that authority may decide.

Article 3.—If the party against whom the award has been made proves that, under the law governing the arbitration procedure, there is a ground, other than the grounds referred to in Article 1(a) and (c), and Article 2(b) and (c), entitling him to contest the validity of the award in a Court of Law, the Court may, if it thinks fit, either refuse recognition or enforcement of the award or adjourn the consideration thereof, giving such party a reasonable time within which to have the award annulled by the competent tribunal.

Article 4.—The party relying upon an award or claiming its enforcement must supply, in particular:—

(1) the original award or a copy thereof duly authenticated, according to the requirements of the law of the country in which it was made;

(2) documentary or other evidence to prove that the award has become final, in the sense defined in Article 1 (d), in the country in which it was made;

(3) when necessary, documentary or other evidence to prove that the conditions laid down in Article 1, paragraph (1) and paragraph (2) (a) and (c), have been fulfilled.

A translation of the award and of the other documents mentioned in this Article into the official language of the country where the award is sought to be relied upon may be demanded. Such translations must be certified correct by a diplomatic or consular agent of the country to which the party who seeks to rely upon the award belongs or by a sworn translator of the country where the award is sought to be relied upon.

Article 5.—The provisions of the above articles shall not deprive any interested party of the right of availing himself of an arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon.

Article 6.—The present Convention applies only to arbitral awards made after the coming into force of the Protocol on Arbitration Clauses opened at Geneva on September 24th, 1923.

Article 7.—The present Convention, which will remain open to the signature of all the signatories of the Protocol of 1923 on Arbitration Clauses, shall be ratified.

It may be ratified only on behalf of those Members of the League of Nations and Non-Member States on whose behalf the Protocol of 1923 shall have been ratified.

Ratification shall be deposited as soon as possible with the Secretary-General of the League of Nations, who will notify such deposit to all the signatories.

Article 8.—The present Convention shall come into force three months after it shall have been ratified on behalf of two High Contracting Parties. Thereafter, it shall take effect, in the case of each High Contracting Party, three months after the deposit of the ratification on its behalf with the Secretary-General of the League of Nations.

Article 9.—The present Convention may be denounced on behalf of any Member of the League or Non-Member State. Denunciation shall be notified in writing to the Secretary-General of the League of Nations, who will immediately send a copy thereof, certified to be in conformity with the notifications, to all the other Contracting Parties, at the same time informing them of the date on which he received it.

The denunciation shall come into force only in respect of the High Contracting Party which shall have notified it and one year after such notification shall have reached the Secretary-General of the League of Nations.

The denunciation of the Protocol on Arbitration Clauses shall entail, *ipso facto*, the denunciation of the present Convention.

Article 10.—The present Convention does not apply to the colonies, protectorates or territories under suzerainty or mandate of any High Contracting Party unless they are specially mentioned.

The application of this Convention to one or more of such colonies, protectorates or territories to which the Protocol on Arbitration Clauses opened at Geneva on September 24th, 1923, applies, can be effected at any time by means of a declaration addressed to the Secretary-General of the League of Nations by one of the High Contracting Parties.

Such declaration shall take effect three months after the deposit thereof.

The High Contracting Parties can at any time denounce the Convention for all or any of the colonies, protectorates or territories referred to above. Article 9 hereof applied to such denunciation.

Article 11.—A certified copy of the present Convention shall be transmitted by the Secretary-General of the League of Nations to every Member of the League of Nations and to every Non-Member State which signs the same.

Sd/-

K. L. MOHANPURIA,
Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXIX WEDNESDAY. FEBRUARY 4, 1998/MAGHA 15, 1919.

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
 LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 4th February, 1998.

No. RP-73-Act. 8-97-E-9/E :—The following Act of Parliament is
 re-published for general information :

GOVERNMENT OF INDIA
 MINISTRY OF LAW AND JUSTICE
 (Legislative Department)

New Delhi, the 19th March, 1997/Falgun 28, 1918 (Saka)

The following Act of Parliament received the assent of the President on
 the 19th March, 1997 and is hereby published for general information:

THE DEPOSITORIES RELATED LAWS (AMENDMENT) ACT, 1997

(Act No. 8 of 1997)

(19th March, 1997)

AN ACT

*further to amend the Indian Stamp Act, 1899, the State Bank of India Act, 1955, the
 Companies Act, 1956, the State Bank of India (Subsidiary Banks) Act, 1959, the
 Industrial Development Bank of India Act, 1964, the Banking Companies (Acquisition
 and Transfer of Undertakings) Act, 1970, the Banking Companies (Acquisition and
 Transfer of Undertakings) Act, 1980 and the Depositories Act, 1996.*

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as
 follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Depositories Related Laws (Amendment) Act,
 1997.

Short title and
 commence-
 ment.

(2) It shall be deemed to have come into force on the 15th day of January, 1997.

CHAPTER II

AMENDMENT TO THE INDIAN STAMP ACT, 1899.

2. In section 8A of the Indian Stamp Act, 1899, for clause (d), the following clauses
 shall be substituted, namely:—

Amendment of
 section 8A of
 Act 2 of 1899.

"(d) transfer of beneficial ownership of shares, such shares being shares of a company formed and registered under the Companies Act, 1956 or a body corporate established by a Central Act dealt with by a depository, shall not be liable to duty under article 62 of Schedule I of this Act;

1 of 1956.

(e) transfer of beneficial ownership of units, such units being units of a mutual fund including units of the Unit Trust of India established under sub-section (1) of section 3 of the Unit Trust of India Act, 1963 dealt with by a depository, shall not be liable to duty under article 62 of Schedule I of this Act."

52 of 1963.

CHAPTER III

AMENDMENTS TO THE STATE BANK OF INDIA ACT, 1955

Amendment of
section 13.

3. In section 13 of the State Bank of India Act, 1955 (hereafter in this Chapter referred to as the State Bank Act), in sub-section (1), the following proviso shall be inserted at the end, namely:—

23 of 1955.

"Provided that nothing in this sub-section shall apply to the shares held with a depository."

Insertion of
new section
13A.

4. After section 13 of the State Bank Act, the following section shall be inserted, namely:—

Register of
beneficial
owners.

"13A. The register of beneficial owners maintained by a depository under section 11 of the Depositories Act, 1996 shall be deemed to be a register of shareholders for the purposes of this Act."

22 of 1996.

Amendment of
section 15.

5. In section 15 of the State Bank Act, the following proviso and the *Explanation* shall be inserted at the end, namely:—

"Provided that nothing in this section shall apply to a depository in respect of shares held by it as a registered owner on behalf of the beneficial owners.

Explanation.—For the purposes of section 13, section 13A and this section, the expressions "beneficial owner", "depository" and "registered owner" shall have the meanings respectively assigned to them in clauses (a), (e) and (j) of sub-section (1) of section 2 of the Depositories Act, 1996."

22 of 1996.

CHAPTER IV

AMENDMENTS TO THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

Amendment of
section 21.

6. In section 21 of the State Bank of India (Subsidiary Banks) Act, 1959 (hereafter in this Chapter referred to as the Subsidiary Banks Act), the following proviso shall be inserted at the end, namely:—

38 of 1959.

"Provided that nothing in this section shall apply to the shares held with a depository."

Insertion of
new section
21A.

7. After section 21 of the Subsidiary Banks Act, the following section shall be inserted, namely:—

Register of
beneficial
owners.

"21A. The register of beneficial owners maintained by a depository under section 11 of the Depositories Act, 1996 shall be deemed to be a register of shareholders for the purposes of this Act."

22 of 1996.

Amendment of
section 22.

8. In section 22 of the Subsidiary Banks Act, the following proviso and the *Explanation* shall be inserted at the end, namely:—

"Provided that nothing in this section shall apply to a depository in respect of shares held by it as a registered owner on behalf of the beneficial owners.

Explanation.—For the purposes of section 21, section 21A and this section, the expressions “beneficial owner”, “depository” and “registered owner” shall have the meanings respectively assigned to them in clauses (a), (e) and (j) of sub-section (1) of section 2 of the Depositories Act, 1996.

22 of 1996.

CHAPTER V

AMENDMENTS TO THE COMPANIES ACT, 1956

1 of 1956.

9. After section 82 of the Companies Act, 1956 (hereafter in this Chapter referred to as the Companies Act), the following section shall be inserted, namely:—

Insertion of new section 83.

“83. Each share in a company having a share capital shall be distinguished by its appropriate number:

Numbering of shares.

Provided that nothing in this section shall apply to the shares held with a depository.”

10. In section 111A of the Companies Act,—

Amendment of section 111A.

(a) in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that if a company without sufficient cause refuses to register transfer of shares within two months from the date on which the instrument of transfer or the intimation of transfer, as the case may be, is delivered to the company, the transferee may appeal to the Company Law Board and it shall direct such company to register the transfer of shares.”;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The Company Law Board may, on an application made by a depository, company, participant or investor or the Securities Exchange Board of India, if the transfer of shares or debentures is in contravention of any of the provisions of the Securities and Exchange Board of India Act, 1992, or regulations made thereunder or the Sick Industrial Companies (Special Provisions) Act, 1985, or any other law for the time being in force, within two months from the date of transfer of any shares or debentures held by a depository or from the date on which the instrument of transfer or the intimation of the transmission was delivered to the company, as the case may be, after such inquiry as it thinks fit, direct any depository or company to rectify its register or records.”

15 of 1992.

1 of 1986.

11. In section 150 of the Companies Act, in sub-section (1), in clause (b), after the words “the shares held by each member”, the words “distinguishing each share by its number except where such shares are held with a depository” shall be inserted.

Amendment of section 150.

12. In section 152 of the Companies Act, in sub-section (1), in clause (b), after the words “the debentures held by each member”, the words “distinguishing each debenture by its number except where such debentures are held with a depository” shall be inserted.

Amendment of section 152.

CHAPTER VI

AMENDMENTS TO THE INDUSTRIAL DEVELOPMENT BANK OF INDIA ACT, 1964

18 of 1964.

13. In section 13B of the Industrial Development Bank of India Act, 1964 (hereafter in this Chapter referred to as the Development Bank Act), in sub-section (1), the following proviso shall be inserted at the end, namely:—

Amendment of section 13B.

“Provided that nothing in this sub-section shall apply to the shares held with a depository.”

14. After section 13B of the Development Bank Act, the following section shall be inserted, namely:—

Insertion of new section 13BA.

Register of
beneficial
owners.

"13BA. The register of beneficial owners maintained by a depository under section 11 of the Depositories Act, 1996 shall be deemed to be a register of the shareholders for the purposes of this Act."

22 of 1996.

Amendment of
section 13C.

15. In section 13C of the Development Bank Act, the following proviso and the *Explanation* shall be inserted at the end, namely:—

'Provided that nothing in this section shall apply to a depository in respect of shares held by it as a registered owner on behalf of a beneficial owner.

Explanation.—For the purposes of section 13B, section 13BA and this section, the expressions "beneficial owner", "depository" and "registered owner" shall have the meanings respectively assigned to them in clauses (a), (e) and (j) of sub-section (1) of section 2 of the Depositories Act, 1996.'

22 of 1996.

CHAPTER VII

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1970

Amendment of
section 3.

16. In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (hereafter in this Chapter referred to as the Bank Nationalisation Act), in sub-section (2F), the following proviso shall be inserted at the end, namely:—

5 of 1970.

"Provided that nothing in this sub-section shall apply to the shares held with a depository."

Amendment of
section 3A.

17. In section 3A of the Bank Nationalisation Act, the following proviso shall be inserted at the end, namely:—

"Provided that nothing in this section shall apply to a depository in respect of shares held by it as a registered owner on behalf of the beneficial owners."

Insertion of
new section 3B.

18. After section 3A of the Bank Nationalisation Act, the following section shall be inserted, namely:—

Register of
beneficial
owners.

'3B. The register of beneficial owners maintained by a depository under section 11 of the Depositories Act, 1996, shall be deemed to be a register of shareholders for the purposes of this Act.

22 of 1996.

Explanation.—For the purposes of section 3, section 3A and this section, the expressions "beneficial owner", "depository" and "registered owner" shall have the meanings respectively assigned to them in clauses (a), (e) and (j) of sub-section (1) of section 2 of the Depositories Act, 1996.'

22 of 1996.

CHAPTER VIII

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1980

Amendment of
section 3.

19. In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (hereafter in this Chapter referred to as the Bank (Second)

40 of 1980.

Nationalisation Act], after sub-section (2F), the following proviso shall be inserted at the end, namely:—

“Provided that nothing in this sub-section shall apply to shares held with a depository.”

20. In section 3A of the Bank (Second) Nationalisation Act, the following proviso shall be inserted at the end, namely:—

Amendment of section 3A.

“Provided that nothing in this section shall apply to a depository in respect of shares held by it as a registered owner on behalf of the beneficial owners.”

21. After section 3A of the Bank (Second) Nationalisation Act, the following section shall be inserted, namely:—

Insertion of new section 3B.

‘3B. The register of beneficial owners maintained by a depository under section 11 of the Depositories Act, 1996, shall be deemed to be a register of shareholders for the purposes of this Act.

Register of beneficial owners.

22 of 1996.

Explanation.—For the purposes of section 3, section 3A and this section, the expressions “beneficial owner”, “depository” and “registered owner” shall have the meanings respectively assigned to them in clauses (a), (e) and (j) of sub-section (1) of section 2 of the Depositories Act, 1996.”

22 of 1996.

CHAPTER IX

AMENDMENT TO THE DEPOSITORIES ACT, 1996

22. In section 9 of the Depositories Act, 1996, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 9 of Act 22 of 1996.

“(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 shall apply to a depository in respect of securities held by it on behalf of the beneficial owners.”

1 of 1956.

CHAPTER X

MISCELLANEOUS

Ord. 5 of 1997.

23. (1) The Depositories Related Laws (Amendment) Ordinance, 1997 is hereby repealed.

Repeal and saving.

2 of 1899.
23 of 1955.
1 of 1956.
38 of 1959.
18 of 1964.
5 of 1970.
40 of 1980.
22 of 1996.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Stamp Act, 1899, the State Bank of India Act, 1955, the Companies Act, 1956, the State Bank of India (Subsidiary Banks) Act, 1959, the Industrial Development Bank of India Act, 1964, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 and the Depositories Act, 1996 as amended by the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

Sd/-

K. L. MOHANPURIA,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
 LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 4th February, 1998.

No. RP-74-Act. 14 OF 97/97/E/10/E :—The following Act of Parliament
 is re-published for general information :

GOVERNMENT OF INDIA
 MINISTRY OF LAW AND JUSTICE
 (Legislative Department)

New Delhi, the 25th March, 1997/Chaitra 4, 1919 (Saka)

The following Act of Parliament received the assent of the President on
 the 25th March, 1997 and is hereby published for general information :

THE INCOME-TAX (AMENDMENT) ACT, 1997

(Act No. 14 of 1997) *AN ACT* (25th March, 1997)
further to amend the Income-tax Act, 1961.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as
 follows:—

1. (1) This Act may be called the Income-tax (Amendment) Act, 1997.
 (2) Save as otherwise provided in this Act, sections 4 to 10 shall be deemed to have
 come into force on the 1st day of January, 1997.

Short title and
 commence-
 ment.

43 of 1961.

2. In section 54EA of the Income-tax Act, 1961 (hereinafter referred to as the
 Income-tax Act), with effect from the 1st day of October, 1996,—

Amendment of
 section 54EA.

(a) in sub-section (1), for the words, brackets, figures and letter "bonds,
 debentures or units of mutual fund referred to in clause (23D) of section 10", the
 words, brackets, figures and letter "bonds, debentures, shares of a public company or
 units of any mutual fund referred to in clause (23D) of section 10" shall be substituted
 and shall be deemed to have been substituted;

(b) for the words "specified bonds or debentures", wherever they occur, the words "specified securities" shall be substituted and shall be deemed to have been substituted.

Amendment of
section 80G.

3. In section 80G of the Income-tax Act, with effect from the 1st day of April, 1997,—

(a) in sub-section (1), in clause (i), after the word, brackets, figures and letters "sub-clause (iiid)", the words, brackets, figures and letters "or sub-clause (iiie)" shall be inserted;

(b) in sub-section (2), in clause (a), after sub-clause (iiid), the following sub-clause shall be inserted, namely:—

"(iiie) the National Illness Assistance Fund; or"

Amendment of
section 158BC.

4. In section 158BC of the Income-tax Act, for clause (a), the following shall be substituted, namely:—

"(a) the Assessing Officer shall—

(i) in respect of search initiated or books of account or other documents or any assets requisitioned after the 30th day of June, 1995 but before the 1st day of January, 1997 serve a notice to such person requiring him to furnish within such time not being less than fifteen days;

(ii) in respect of search initiated or books of account or other documents or any assets requisitioned on or after the 1st day of January, 1997 serve a notice to such person requiring him to furnish within such time not being less than fifteen days but not more than forty-five days,

as may be specified in the notice a return in the prescribed form and verified in the same manner as a return under clause (i) of sub-section (1) of section 142, setting forth his total income including the undisclosed income for the block period:

Provided that no notice under section 148 is required to be issued for the purpose of proceeding under this Chapter:

Provided further that a person who has furnished a return under this clause shall not be entitled to file a revised return;"

Amendment of
section 158BE.

5. In section 158BE of the Income-tax Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) The order under section 158BC shall be passed—

(a) within one year from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed in cases where a search is initiated or books of account or other documents or any assets are requisitioned after the 30th day of June, 1995 but before the 1st day of January, 1997;

(b) within two years from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed in cases where a search is initiated or books of account or other documents or any assets are requisitioned on or after the 1st day of January, 1997.

(2) The period of limitation for completion of block assessment in the case of the other person referred to in section 158BD shall be—

(a) one year from the end of the month in which the notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or any assets requisitioned after the 30th day of June, 1995 but before the 1st day of January, 1997; and

(b) two years from the end of the month in which the notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or any assets are requisitioned on or after the 1st day of January, 1997."

6. After section 158BF of the Income-tax Act, the following section shall be inserted, namely:—

Insertion of
new section
158BFA.
Levy of interest
and penalty in
certain cases.

"158BFA. (1) Where the return of total income including undisclosed income for the block period, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or after the 1st day of January, 1997 as required by a notice under clause (a) of section 158BC, is furnished after the expiry of the period specified in such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. of the tax on undisclosed income, determined under clause (c) of section 158BC, for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time specified in the notice, and—

(a) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(b) where no return has been furnished, on the date of completion of assessment under clause (c) of section 158BC.

(2) The Assessing Officer or the Commissioner (Appeals), in the course of any proceedings under this Chapter, may direct that a person shall pay by way of penalty a sum which shall not be less than the amount of tax leviable but which shall not exceed three times the amount of tax so leviable in respect of the undisclosed income determined by the Assessing Officer under clause (c) of section 158BC:

Provided that no order imposing penalty shall be made in respect of a person if—

(i) such person has furnished a return under clause (a) of section 158BC;

(ii) the tax payable on the basis of such return has been paid or, if the assets seized consist of money, the assessee offers the money so seized to be adjusted against the tax payable;

(iii) evidence of tax paid is furnished along with the return; and

(iv) an appeal is not filed against the assessment of that part of income which is shown in the return:

Provided further that the provisions of the preceding proviso shall not apply where the undisclosed income determined by the Assessing Officer is in excess of the income shown in the return and in such cases the penalty shall be imposed on that portion of undisclosed income determined which is in excess of the amount of undisclosed income shown in the return.

(3) No order imposing a penalty under sub-section (2) shall be made—

(a) unless an assessee has been given a reasonable opportunity of being heard;

(b) by the Assistant Commissioner or the Assistant Director, as the case may be, where the amount of penalty exceeds twenty thousand rupees except with the previous approval of the Deputy Commissioner or the Deputy Director, as the case may be;

(c) in a case where the assessment is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or the Commissioner, whichever period expires later;

(d) in a case where the assessment is the subject-matter of revision under section 263, after the expiry of six months from the end of the month in which such order of revision is passed;

(e) in any case other than those mentioned in clauses (c) and (d), after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later;

(f) in respect of search initiated under section 132 or books of account, other documents or any Assets requisitioned under section 132A, after the 30th day of June, 1995 but before the 1st day of January, 1997.

Explanation.—In computing the period of limitation for the purpose of this section,—

(i) the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129;

(ii) the period during which the immunity granted under section 245H remained in force; and

(iii) the period during which the proceedings under sub-section (2) are stayed by an order or injunction of any court,

shall be excluded.

(4) An Income-tax authority on making an order under sub-section (2) imposing a penalty, unless he is himself an Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer."

Substitution of new section for section 158BG.

Authority competent to make the block assessment.

7. For section 158BG of the Income-tax Act, the following section shall be substituted, namely:—

"158BG. The order of assessment for the block period shall be passed by an Assessing Officer not below the rank of an Assistant Commissioner or an Assistant Director, as the case may be:

Provided that no such order shall be passed without the previous approval of—

(a) the Commissioner or Director, as the case may be, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995 but before the 1st day of January, 1997;

(b) the Deputy Commissioner or the Deputy Director, as the case may be, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or after the 1st day of January, 1997."

Amendment of section 246.

8. In section 246 of the Income-tax Act, in sub-section (2), after clause (d), the following clauses shall be inserted, namely:—

"(da) an order of assessment made by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or after the 1st day of January, 1997;

(db) an order imposing a penalty under sub-section (2) of section 158BFA;"

Amendment of section 253.

9. In section 253 of the Income-tax Act, in sub-section (1), for clause (b), the following clause shall be substituted, namely:—

"(b) an order passed by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995, but before the 1st day of January, 1997; or"

Insertion of new section 276CCC.

10. After section 276CC of the Income-tax Act, the following section shall be inserted, namely:—

"276CCC. If a person wilfully fails to furnish in due time the return of total income which he is required to furnish by notice given under clause (a) of section 158BC, he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to three years and with fine:

Failure to furnish return of income in search cases.

Provided that no person shall be punishable for any failure under this section in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995 but before the 1st day of January, 1997."

Ord. 32 of
1996.

Ord. 32 of
1996.

11. (1) The Income-tax (Second Amendment) Ordinance, 1996 is hereby repealed.

Repeal and
saving.

(2) Notwithstanding the repeal of the Income-tax (Second Amendment) Ordinance, 1996, anything done or any action taken under the Income-tax Act, as amended by the said Ordinance shall be deemed to have been done or taken under the Income-tax Act, as amended by this Act.

Sd/-

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, 10th February, 1998.

No. RP/72/Act 7/97/E/12/E :—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19th March, 1997/Falguna 28, 1918 (Saka)

The following Act of Parliament received the assent of the President on the 19th March, 1997 and is hereby published for general information:

THE INDUSTRIAL RECONSTRUCTION BANK (TRANSFER OF UNDERTAKINGS AND REPEAL) ACT, 1997

(Act No. 7 of 1997)

(19th March, 1997)

AN ACT

to provide for the transfer and vesting of the undertakings of the Industrial Reconstruction Bank of India to and in the Company to be formed and registered as a Company under the Companies Act, 1956, and for matters connected therewith or incidental thereto and also to repeal the Industrial Reconstruction Bank of India Act, 1984.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Industrial Reconstruction Bank (Transfer of Undertakings and Repeal) Act, 1997.

Short title and commencement.

(2) It shall be deemed to have come into force on the 24th day of January, 1997.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appointed day" means such date as the Central Government may, by notification in the Official Gazette, appoint under section 3;

(b) "Company" means the Industrial Investment Bank of India Limited to be formed and registered under the Companies Act, 1956;

(c) "Reconstruction Bank" means the Industrial Reconstruction Bank of India

established under sub-section (1) of section 3 of the Industrial Reconstruction Bank of India Act, 1984.

62 of 1984.

CHAPTER II

TRANSFER AND VESTING OF THE UNDERTAKINGS OF RECONSTRUCTION BANK IN COMPANY

Undertakings
of the
Reconstruction
Bank to vest in
Company.

3. On such date as the Central Government may, by notification in the Official Gazette, appoint, there, shall be transferred to, and vest in, the Company, the undertakings of Reconstruction Bank.

General effect
of vesting of
undertakings in
Company.

4. (1) The Central Government, being the shareholder of the Reconstruction Bank immediately before the appointed day, shall be deemed to be registered, on and from the appointed day, as a shareholder of the Company.

(2) The undertakings of the Reconstruction Bank which are transferred to, and which vest in, the Company under section 3 shall be deemed to include all business, assets, rights, powers, authorities and privileges and all properties, movable and immovable, real and personal, corporeal and incorporeal, in possession or reservation, present or contingent of whatever nature and wheresoever situate including lands, buildings, vehicles, cash balances, deposits, foreign currencies, disclosed and undisclosed reserves, reserve fund, special reserve fund, benevolent reserve fund, any other fund, stocks, investments, shares, bonds, debentures, security, management of any industrial concern, loans, advances and guarantees given to industrial concerns, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of the Reconstruction Bank in relation to its undertakings, within or without India, all books of account, registers, records and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind within or without India then subsisting of the Reconstruction Bank in relation to its undertakings.

(3) All contracts, deeds, bonds, guarantees, powers of attorney, other instruments and working arrangements subsisting immediately before the appointed day and affecting the Reconstruction Bank shall cease to have effect or to be enforceable against the Reconstruction Bank and shall be of as full force and effect against or in favour of the Company in which the undertakings of the Reconstruction Bank have vested by virtue of this Act and enforceable as fully and effectually as if instead of the Reconstruction Bank, the Company had been named therein or had been a party thereto.

(4) Any proceeding or cause of action pending or existing immediately before the appointed day by or against the Reconstruction Bank in relation to its undertakings may, as from the appointed day, be continued and enforced by or against the Company in which the undertakings of the Reconstruction Bank have vested by virtue of this Act as it might have been enforced by or against the Reconstruction Bank if this Act had not been enacted and shall cease to be enforceable by or against the Reconstruction Bank.

Provisions in
respect of
officers and
other
employees of
Reconstruction
Bank.

5. (1) Every officer or other employee of the Reconstruction Bank (except a Director of the Board or the Chairman and Managing Director) serving in the employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertakings which have vested in the Company by virtue of this Act, become, as from the appointed day, an officer or, as the case may be, other employee of the Company and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, leave fare concession, welfare scheme, medical benefit scheme, insurance, provident fund, other funds, retirement, voluntary retirement, gratuity and other benefits as he would have held under the Reconstruction Bank if its undertakings had not vested in the Company and shall continue to do so as an officer or, as the case may be, other employee of the Company or until the expiry of a period of six months from the appointed day if such officer or other employee

opts not to continue to be the officer or other employee of the Company within such period.

(2) Where an officer or other employee of the Reconstruction Bank opts under sub-section (1) not to be in employment or service of the Company, such officer or other employee shall be deemed to have resigned.

14 of 1947.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of the Reconstruction Bank to the Company shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(4) The officers and other employees who have retired before the appointed day from the service of the Reconstruction Bank and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Company.

(5) The trust of the provident fund or the gratuity fund of the Reconstruction Bank and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the Company as was being done hitherto in the Reconstruction Bank and any tax exemption granted to the provident fund or the gratuity fund would continue to be applied to the Company.

1 of 1956.

(6) Notwithstanding anything contained in this Act or in the Companies Act, 1956 or in any other law for the time being in force or in the regulations of the Reconstruction Bank, no Director of the Board, Chairman and Managing Director or any other person entitled to manage the whole or substantial part of the business and affairs of the Reconstruction Bank shall be entitled to any compensation against the Reconstruction Bank or the Company for the loss of office or for the premature termination of any contract of management entered into by him with the Reconstruction Bank.

CHAPTER III

MISCELLANEOUS

6. With effect from the appointed day, all fiscal and other concessions, licences, benefits, privileges and exemptions granted to the Reconstruction Bank in connection with the affairs and business of the Reconstruction Bank under any law for the time being in force shall be deemed to have been granted to the Company.

Concession, etc., to be deemed to have been granted to Company.

43 of 1961.

7. (1) Notwithstanding anything contained in the Income-tax Act, 1961 or any other enactment for the time being in force relating to tax on income, profits or gains, the Company shall not be liable to pay income-tax or any other tax for a period of five years computed from the appointed day in respect of any income, profits or gains derived, or any amount received by the Company.

Tax exemption or benefit to continue to have effect.

(2) The transfer and vesting of the undertakings or any part thereof in terms of section 3 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961 for the purposes of capital gains.

43 of 1961.

8. Any guarantee given for or in favour of the Reconstruction Bank with respect to any loan, lease finance or other assistance shall continue to be operative in relation to the Company.

Guarantee to be operative.

9. (1) Where any arrangement entered into by the company with an industrial or other concern provides for the appointment by the company of one or more directors of such concern, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956 or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to such concern, and any provision

Arrangement with Company on appointment of directors to prevail.

1 of 1956.

regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the company in pursuance of the arrangement as aforesaid.

(2) Any director appointed in pursuance of sub-section (1) shall—

(a) hold office during the pleasure of the company and may be removed or substituted by any person by order in writing by the company;

(b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.

Act 18 of 1891
to apply to the
books of
Company.

10. The Company shall be deemed to be a bank for the purposes of the Bankers' Books Evidence Act, 1891.

Shares, bonds
and debentures
to be deemed to
be approved
securities.

11. Notwithstanding anything contained in any other law for the time being in force, the shares, bonds and debentures of the Company shall be deemed to be approved securities for the purposes of the Indian Trusts Act, 1882, the Insurance Act, 1938 and the Banking Regulation Act, 1949.

2 of 1882.
4 of 1938.
10 of 1949.

Substitution in
Acts, rules or
regulations of
company in
place of the
Reconstruction
Bank.

12. In every Act, rule or regulation in force on the appointed day,—

(a) for the words "Industrial Reconstruction Bank of India", wherever they occur, the words "Industrial Investment Bank of India Limited" shall be substituted;

(b) for the words "Reconstruction Bank", wherever they occur, the words "Industrial Investment Bank" shall be substituted.

Repeal and
saying of Act
62 of 1984.

13. (1) On the appointed day, the Industrial Reconstruction Bank of India Act, 1984 shall stand repealed.

(2) Notwithstanding the repeal of the Industrial Reconstruction Bank of India Act, 1984,—

(a) the Company shall, so far as may be, comply with the provisions of Chapter VII of the Act so repealed for any of the purposes related to the annual accounts and audit of the Reconstruction Bank;

(b) the provisions of Chapter VIII of the Act so repealed will continue to be applicable in respect of the arrangements entered into by the Reconstruction Bank with an industrial concern under section 18 thereof up to the appointed day and the Company will be entitled to act upon and enforce the same as fully and effectually as if this Act had not been enacted.

CHAPTER IV

AMENDMENT TO THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA ACT, 1984

Insertion of
new section
4A.

Transitional
provisions
regarding
adjustment of
capital of the
Reconstruction
Bank.

14. In the Industrial Reconstruction Bank of India Act, 1984, after section 4, the following section shall be inserted, namely:—

62 of 1984.

"4A. (1) The Central Government may reduce share capital of the Reconstruction Bank by,—

(a) extinguishing or reducing the liability of any of its equity shares;

(b) either with or without extinguishing or reducing liability on any of its equity shares, cancelling any paid up share capital which is lost, or is unrepresented by available assets; or



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WEDNESDAY, FEBRUARY 18, 1998/MAGHA 29, 1919

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 16th February, 1998.

No. RP/69/Act. 24/97/E/16/E :—The following Act of Parliament is re-published
for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 29th March, 1997/Chaitra 8, 1919 (Saka)

The following Act of Parliament received the assent of the President on the
28th March, 1997 and is hereby published for general information :

THE TELECOM REGULATORY AUTHORITY OF INDIA ACT, 1997
(Act No. 24 of 1997) (28th March, 1997)

AN ACT

*to provide for the establishment of the Telecom Regulatory Authority of India to regulate
the telecommunication services, and for matters connected therewith or incidental
thereto.*

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Telecom Regulatory Authority of India Act, 1997.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 25th day of January, 1997.

Short title,
extent and
commence-
ment.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “appointed day” means the date with effect from which the Authority is established under sub-section (1) of section 3;

(b) “Authority” means the Telecom Regulatory Authority of India established under sub-section (1) of section 3;

(c) “Chairperson” means the Chairperson of the Authority appointed under sub-section (3) of section 3;

(d) “Fund” means the Fund constituted under sub-section (1) of section 22;

(e) “licensee” means any person licensed under sub-section (1) of section 4 of the Indian Telegraph Act, 1885 for providing specified public telecommunication services;

13 of 1885.

(f) “member” means a member of the Authority appointed under sub-section (3) of section 3 and includes the Chairperson and the Vice-Chairperson;

(g) “notification” means a notification published in the Official Gazette;

(h) “prescribed” means prescribed by rules made under this Act;

(i) “regulations” means regulations made by the Authority under this Act;

(j) “service provider” means the Government and includes a licensee;

(k) “telecommunication service” means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electromagnetic means but shall not include broadcasting services.

(2) Words and expressions used and not defined in this Act but defined in the Indian Telegraph Act, 1885 or the Indian Wireless Telegraphy Act, 1933, shall have the meanings respectively assigned to them in those Acts.

13 of 1885.

17 of 1933.

(3) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall in relation to that State be construed as a reference to the corresponding law, if any, in that State.

CHAPTER II

TELECOM REGULATORY AUTHORITY OF INDIA

Establishment
and incorporation
of
Authority.

3. (1) With effect from such date as the Central Government may, by notification appoint, there shall be established, for the purposes of this Act, an Authority to be called the Telecom Regulatory Authority of India.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The Authority shall consist of a Chairperson, and not less than two, but not exceeding six members, to be appointed by the Central Government.

(4) The head office of the Authority shall be at New Delhi.

Qualifications
for appointment
of Chairperson
and other mem-
bers.

4. (1) The Chairperson shall be a person who is or has been a Judge of the Supreme Court or who is or has been the Chief Justice of a High Court.

(2) A member shall be a person who has special knowledge of, and professional experience in, telecommunication, industry, finance, accountancy, law, management and consumer affairs:

Provided that a person who is or has been in the service of Government shall not be appointed as a member unless such person has held the post of Secretary or Additional

Secretary, or the post of Additional Secretary and Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a period of three years.

5. (1) Before appointing any person as the Chairperson or member, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such member.

Term of office, conditions of service, etc., of Chairperson and other members.

(2) The Chairperson shall hold office for a term of five years from the date on which he enters upon his office.

(3) A member shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

(4) The employee of the Government on his selection as member shall have to retire from service before joining as a member.

(5) The salary and allowances payable to and the other terms and conditions of service of the Chairperson and other members shall be such as may be prescribed.

(6) The salary, allowances and other conditions of service of the Chairperson or of a member shall not be varied to his disadvantage after appointment.

(7) Notwithstanding anything contained in sub-section (2) or sub-section (3), a member may—

(a) relinquish his office by giving in writing to the Central Government notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 7.

(8) The Chairperson or any other member, ceasing to hold office as such, shall—

(a) be ineligible for further employment under the Central Government or any State Government; or

(b) not accept any commercial employment, for a period of two years from the date he ceases to hold such office.

(9) A vacancy caused to the office of the Chairperson or any other member shall be filled up within a period of three months from the date on which such vacancy occurs.

Explanation.—For the purposes of this section, “commercial employment” means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in any field and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

6. (1) The Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such powers and functions of the Authority and shall discharge such other powers and functions as may be prescribed.

Powers of Chairperson and Vice-Chairperson.

(2) The Central Government may appoint one of the members to be a Vice-Chairperson of the Authority who shall exercise and discharge such powers and functions of the Chairperson as may be prescribed or as may be delegated to him by the Authority.

7. (1) The Central Government may remove from office any member, who,—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

Removal and suspension of member from office in certain circumstances.

(2) Notwithstanding anything contained in sub-section (1), no member shall be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court on a reference being made to it in this behalf by the Central Government, has, on an enquiry, held by it in accordance with such procedure as prescribed in this behalf, reported that the member ought on such ground or grounds to be removed.

(3) The Central Government may suspend from office a member in respect of whom a reference has been made to the Supreme Court under sub-section (2) until the Central Government has passed an order on receipt of the report of the Supreme Court on such reference.

Meetings.

8. (1) The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(2) The Chairperson or, if for any reason, he is unable to attend a meeting of the Authority, Vice-Chairperson and in his absence, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority vote of the members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding, shall have a second or casting vote.

(4) The Authority may make regulations for the transaction of business at its meetings.

Vacancies, etc.,
not to invalidate
proceedings of
Authority.

9. No act or proceeding of the Authority shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

Officers and
other employees
of Authority.

10. (1) The Authority may appoint officers and such other employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The salary and allowances payable to and the other conditions of service of the officers and other employees of the Authority appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III

POWERS AND FUNCTIONS OF THE AUTHORITY

Functions of
Authority.

11. (1) Notwithstanding anything contained in the Indian Telegraph Act, 1885, the functions of the Authority shall be to—

13 of 1885.

(a) recommend the need and timing for introduction of new service provider;

(b) recommend the terms and conditions of licence to a service provider;

(c) ensure technical compatibility and effective inter-connection between different service providers;

(d) regulate arrangement amongst service providers of sharing their revenue derived from providing telecommunication services;

(e) ensure compliance of terms and conditions of licence;

(f) recommend revocation of licence for non-compliance of terms and conditions of licence;

(g) lay down and ensure the time period for providing local and long distance circuits of telecommunication between different service providers;

(h) facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth in such services;

(i) protect the interest of the consumers of telecommunication service;

(j) monitor the quality of service and conduct the periodical survey of such service provided by the service providers;

(k) inspect the equipment used in the network and recommend the type of equipment to be used by the service providers;

(l) maintain register of interconnect agreements and of all such other matters as may be provided in the regulations;

(m) keep register maintained under clause (l) open for inspection to any member of public on payment of such fee and compliance of such other requirements as may be provided in the regulations;

(n) settle disputes between service providers;

(o) render advice to the Central Government in the matters relating to the development of telecommunication technology and any other matter relatable to telecommunication industry in general;

(p) levy fees and other charges at such rates and in respect of such services as may be determined by regulations;

(q) ensure effective compliance of universal service obligations;

(r) perform such other functions including such administrative and financial functions as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this Act.

13 of 1885.

(2) Notwithstanding anything contained in the Indian Telegraph Act, 1885, the Authority may, from time to time, by order, notify in the Official Gazette the rates at which the telecommunication services within India and outside India shall be provided under this Act including the rates at which messages shall be transmitted to any country outside India:

Provided that the Authority may notify different rates for different persons or class of persons for similar telecommunication services and where different rates are fixed as aforesaid the Authority shall record the reasons therefor.

(3) While discharging its functions under sub-section (1), the Authority shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

(4) The Authority shall ensure transparency while exercising its powers and discharging its functions.

12. (1) Where the Authority considers it expedient so to do, it may, by order in writing,—

(a) call upon any service provider at any time to furnish in writing such information or explanation relating to its affairs as the Authority may require; or

(b) appoint one or more persons to make an inquiry in relation to the affairs of any service provider; and

(c) direct any of its officers or employees to inspect the books of account or other documents of any service provider.

(2) Where any inquiry in relation to the affairs of a service provider has been undertaken under sub-section (1),—

(a) every officer of the Government Department, if such service provider is a department of the Government;

(b) every director, manager, secretary or other officer, if such service provider is a company; or

Powers of Authority to call for information, conduct investigations, etc.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

Grants by
Central
Government.

21. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as are required to pay salaries and allowances payable to the Chairperson and the members and the administrative expenses including the salaries, allowances and pension payable to or in respect of officers and other employees of the Authority.

Fund.

22. (1) There shall be constituted a Fund to be called the Telecom Regulatory Authority of India General Fund and there shall be credited thereto—

(a) all grants, fees and charges received by the Authority under this Act; and

(b) all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(a) the salaries and allowances payable to the Chairperson and members and the administrative expenses including the salaries, allowances and pension payable to or in respect of officers and other employees of the Authority; and

(b) the expenses on objects and for purposes authorised by this Act.

Accounts and
audit.

23. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such auditor shall be payable by the Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Furnishing of
returns, etc., to
Central
Government.

24. (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the telecommunication services, as the Central Government may, from time to time, require.

(2) The Authority shall prepare once every year in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER VI

MISCELLANEOUS

Power of
Central
Government to
issue directions.

25. (1) The Central Government may, from time to time, issue to the Authority such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

(2) Without prejudice to the foregoing provisions, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(3) The decision of the Central Government whether a question is one of policy or not shall be final.

45 of 1860.

26. All members, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act to be public servants within the meaning of section 21 of the Indian Penal Code.

Members, officers and employees of Authority to be public servants.

27. No civil court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this Act to determine.

Bar of jurisdiction.

28. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any officer of the Central Government or any member, officer or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Protection of action taken in good faith.

29. If a person violates directions of the Authority, such person shall be punishable with fine which may extend to one lakh rupees and in case of second or subsequent offence with fine which may extend to two lakh rupees and in the case of continuing contravention with additional fine which may extend to two lakh rupees for every day during which the default continues.

Penalty for contravention of directions of Authority.

30. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

31. (1) Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Offences by Government Departments.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer

shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Exemption from
tax on wealth
and income.

32. Notwithstanding anything contained in the Wealth-tax Act, 1957, the Income-tax Act, 1961, or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

27 of 1957;
43 of 1961.

Delegation.

33. The Authority may, by general or special order in writing, delegate to any member, officer of the Authority or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to settle dispute under Chapter IV and to make regulation under section 36) as it may deem necessary.

Cognizance of
offences.

34. (1) No court shall take cognizance of any offence punishable under this Act or the rules or regulations made thereunder, save on a complaint made by the Authority.

(2) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate of first class shall try any offence punishable under this Act.

Power to make
rules.

35. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salary and allowances payable to and the other conditions of service of the Chairperson and members under sub-section (5) of section 5;

(b) the powers and functions of the Chairperson under sub-section (1) of section 6;

(c) the procedure for conducting an inquiry made under sub-section (2) of section 7;

(d) the category of books of account or other documents which are required to be maintained under sub-section (3) of section 12;

(e) the period within which an application is to be made under sub-section (1) of section 15;

(f) the manner in which the accounts of the Authority shall be maintained under sub-section (1) of section 23;

(g) the time within which and the form and manner in which returns and report are to be made to the Central Government under sub-sections (1) and (2) of section 24;

(h) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

Power to make
regulations.

36. (1) The Authority may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the times and places of meetings of the Authority and the procedure to be followed at such meetings under sub-section (1) of section 8, including quorum necessary for the transaction of business;

(b) the transaction of business at the meetings of the Authority under sub-section (4) of section 8;

(c) the salaries and allowances payable to and the other conditions of service of officers and other employees of the Authority under sub-section (2) of section 10;

(d) matters in respect of which register is to be maintained by the Authority under clause (1) of sub-section (1) of section 11;

(e) levy of fee and lay down such other requirements on fulfilment of which a copy of register may be obtained under clause (m) of sub-section (1) of section 11;

(f) levy of fees and other charges under clause (p) of sub-section (1) of section 11.

37. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Rules and regulations to be laid before Parliament.

13 of 1885.

17 of 1933.

38. The provisions of this Act shall be in addition to the provisions of the Indian Telegraph Act, 1885, and the Indian Wireless Telegraphy Act, 1933 and, in particular, nothing in this Act shall affect any jurisdiction, powers and functions required to be exercised or performed by the Telegraph Authority in relation to any area falling within the jurisdiction of such Authority.

Application of certain laws.

39. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Ord. 11 of 1997.

40. (1) The Telecom Regulatory Authority of India Ordinance 1997 is hereby repealed.

Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

Sd/-

* K. L. MOHANPURIA,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
 LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 16th February, 1998.

No. RP/3/Ord. 23 of 97/98/14/E :—The following ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section I, dated the 23rd December, 1997 is republished for general information :—

GOVERNMENT OF INDIA
 MINISTRY OF LAW AND JUSTICE
 (Legislative Department)

New Delhi, the 23rd December, 1997/Pausa 2, 1919 (Saka)

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ORDINANCE, 1997

No. 23 OF 1997

Promulgated by the President in the Forty-eighth Year of the Republic of India.

An Ordinance further to amend the Representation of the People Act, 1951.

WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Representation of the People (Amendment) Ordinance, 1997.

Short title and
commence-
ment.

(2) It shall come into force at once.

Substitution of
new section for
section 159 of
Act 43 of 1951.

2. For section 159 of the Representation of the People Act, 1951, the following section shall be substituted, namely:—

Staff of certain
authorities to be
made available
for election
work.

“159. (1) The authorities specified in sub-section (2) shall, when so requested by a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State, make available to any returning officer such staff as may be necessary for the performance of any duties in connection with an election.

(2) The following shall be authorities for the purposes of sub-section (1), namely:—

(i) every local authority;

(ii) every university established by a Central, Provincial or State Act;

(iii) any other institution, concern or undertaking (not being an institution, a concern or an undertaking established under a Central, Provincial or State Act or a company within the meaning of section 617 of the Companies Act, 1956) controlled, or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government.”

of 1956.

Sd/-

K. R. NARAYANAN,
President.

Sd/-

RAGHBIR SINGH,
Additional Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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PART—VI**Acts of Parliament and Ordinances promulgated by the President.**

GOVERNMENT OF GUJARAT
 LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 16th February, 1998.

No. RP/81/Act. 29/97/E/13/E :—The following Act of Parliament is
 re-published for general information :

GOVERNMENT OF INDIA
 MINISTRY OF LAW AND JUSTICE
 (Legislative Department)
 New Delhi, the 28th May, 1997/Jyestha 7, 1919 (Saka)

The following Act of Parliament received the assent of the President on the 28th
 May, 1997 and is hereby published for general information:

THE SEAMEN'S PROVIDENT FUND (AMENDMENT) ACT, 1997
 (Act No. 29 of 1997) (28th May, 1997)

AN ACT

to amend the Seamen's Provident Fund Act, 1966.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as
 follows:—

1. (1) This Act may be called the Seamen's Provident Fund (Amendment)
 Act, 1997.

Short title and
 commence-
 ment.

(2) It shall come into force on such date as the Central Government may, by notifica-
 tion in the Official Gazette, appoint.

4 of 1966.

2. In section 2 of the Seamen's Provident Fund Act, 1966 (hereinafter referred to as
 the principal Act), in clause (1), for the words "a master, navigating or engineering officer,
 radio officer, medical officer, welfare officer, purser, electrician, nurse, musician, pilot,
 apprentice or deck barber", the words "a welfare officer, nurse, musician, pilot or deck
 barber" shall be substituted.

Amendment
 of section 2.

Amendment of
section 4.

3. In section 4 of the principal Act,—

(a) in sub-section (3), for the words “the State Bank of India”, the words “an approved bank” shall be substituted;

(b) the following *Explanation* shall be added at the end, namely:—

Explanation.—In this section, “approved bank” means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955, or a subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959, or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.’

23 of 1955.

38 of 1959.

5 of 1970.

40 of 1980.

Amendment
of section 7.

4. In section 7 of the principal Act,—

(a) in sub-section (2), the words “and other officers whose maximum monthly salary is not less than six hundred rupees” shall be omitted;

(b) in sub-section (4), the words “or to any other post carrying a maximum monthly salary of not less than six hundred rupees” shall be omitted.

Amendment
of section 8.

5. In section 8 of the principal Act, in sub-section (1), for the words “and thereafter at the rate of eight per cent.”, the words and figures “for the period beginning with the 1st day of April, 1968 and ending with the 31st day of December, 1977, at the rate of eight per cent., and thereafter at the rate of ten per cent. or such higher rate as may be specified in the Scheme” shall be substituted.

Amendment
of section 15.

6. In section 15 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The provisions of the Code of Criminal Procedure, 1973 shall, as far as may be, apply to any search or seizure under sub-section (2) as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.”

2 of 1974.

Amendment
of section 16.

7. In section 16 of the principal Act, in sub-section (1), for the words “six months, or with fine which may extend to one thousand rupees”, the words “one year, or with fine which may extend to fifty thousand rupees” shall be substituted.

Sd/-

K. L. MOHANPURIA,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 3rd March, 1998.

No. RP/41/Act 34 of 96/97/E/26/E.—The following Act of Parliament is re-published for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 28th September, 1996./Ashwina 6, 1918 (Saka)

The following Act of Parliament received the assent of the President on the 28th September, 1996 and is hereby published for general information :—

THE WORKING JOURNALISTS AND OTHER NEWSPAPER EMPLOYEES
(CONDITIONS OF SERVICE) AND MISCELLANEOUS PROVISIONS
(AMENDMENT) ACT, 1996

(Act No. 34 of 1996)

(28th September, 1996)

AN ACT

to amend the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions (Amendment) Act, 1996.

Short title.

2. In section 9 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (hereinafter referred to as the principal Act),—

Amendment of section 9.

(i) in clause (a), for the words "two persons", the words "three persons" shall be substituted;

(ii) in clause (b), for the words "two persons", the words "three persons" shall be substituted;

(iii) in clause (c), for the words "three independent persons", the words "four independent persons" shall be substituted.

Amendment of
section 13C.

3. In section 13C of the principal Act,—

(i) in clause (a), for the words "two persons", the words "three persons" shall be substituted;

(ii) in clause (b), for the words "two persons", the words "three persons" shall be substituted;

(iii) in clause (c), for the words "three independent persons", the words "four independent persons" shall be substituted.

Sd/-

K. L. MOHANPURIA

Secretary to Government of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,

Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, Dated the 4th June, 1998.

No. RP/19/Ord. 30 of 97/98/E.—The following ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section I, dated the 26th December, 1997 is republished for general information:—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
 (Legislative Department)

New Delhi, the 26th December, 1997/Pausa 5, 1919 (Saka)

THE CONTINGENCY FUND OF INDIA (AMENDMENT)
ORDINANCE, 1997

No. 30 of 1997

Promulgated by the President in the Forty-eighth Year of the Republic of India.

An Ordinance further to amend the Contingency Fund of India Act, 1950.

WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that the circumstances exist which render it necessary for him to take immediate action;

NOW THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

Short title and
commence-
ment..

1. (1) This Ordinance may be called the Contingency Fund of India (Amendment) Ordinance, 1997.

(2) It shall come into force at once.

Act 49 of
1950 to
temporarily
amended.

2. During the period of operation of this Ordinance, the Contingency Fund of India Act, 1950 (hereinafter referred to as the principal Act) shall have effect subject to the amendment specified in section 3. 49 of 1950.

Amendment of
section 2.

3. In section 2 of the principal Act, for the proviso, the following proviso shall be substituted, namely :—

‘Provided that during the period beginning on the date of commencement of the Contingency Fund of India (Amendment) Ordinance, 1997, and ending on the 31st day of March, 1998, this section shall have effect subject to the modification that for the words "fifty crores of rupees", the words "fourteen thousand seven hundred crores of rupees" shall be substituted.’

Sd/-

K. R. NARAYANAN,
President.

Sd/-

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, Dated the 4th June, 1998.

No. RP/28/Ord. 3 of 98/37/E.—The following ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section I, dated the 22nd January, 1998 is republished for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 22nd January, 1998/Magha 2, 1919 (Saka)

THE REPRESENTATION OF THE PEOPLE (AMENDMENT)
ORDINANCE, 1998

No. 3 of 1998

Promulgated by the President in the Forty-eighth Year of
the Republic of India.

An Ordinance further to amend the Representation of
the People Act, 1951.

WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that the circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

Short title and
commence-
ment.

1. (1) This Ordinance may be called the Representation of the People (Amendment) Ordinance, 1998.

(2) It shall come into force at once.

Amendment of
section 60 of
Act 43 of
1951.

2. In the Representation of the People Act, 1951, in section 60, after clause (b), the following clause shall be inserted, namely :—

"(c) any person belonging to a class of persons notified by the Election Commission in consultation with the Government to give his vote by postal ballot, and not in any other manner, at an election in a constituency where a poll is taken subject to the fulfilment of such requirements as may be specified in those rules."

Sd/-

K. R. NARAYANAN,
President.

Sd/-

RAGHBIR SINGH,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, Dated the 6th June, 1998.

No. RP/20/Ord. 25 of 97/98/E.—The following ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 25th December, 1997 is republished for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 25th December, 1997/Pausa 4, 1919 (Saka)

**THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS
PROVISIONS (AMENDMENT) SECOND ORDINANCE, 1997**

No. 25 OF 1997

Promulgated by the President in the Forty-eighth Year of the
Republic of India.

An Ordinance further to amend the Employees' Provident Funds and
Miscellaneous Provisions Act, 1952.

WHEREAS a Bill further to amend the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, has been introduced in Parliament but has not yet been passed;

AND WHEREAS for giving effect to the provisions of the said Bill, the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Ordinance, 1997 was promulgated by the President on the 22nd day of September, 1997;

AND WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the said Ordinance;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and
commence-
ment.

1. (1) This Ordinance may be called the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Second Ordinance, 1997.

(2) It shall be deemed to have come into force on the 22nd day of September, 1997.

Amendment of
section 6.

2. In section 6 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the principal Act), for the words "eight and one-third per cent." and "ten per cent.", wherever they occur, the words "ten per cent." and "twelve per cent." shall respectively be substituted.

19 of 1952.

Amendment of
section 7D.

3. In section 7D of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) A person shall not be qualified for appointment as a Presiding Officer of a Tribunal (hereinafter referred to as the Presiding Officer) unless he is, or has been, or is qualified to be,—

- (i) a Judge of a High Court; or
- (ii) a district judge."

Amendment of
section 7F.

4. Section 7F of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

"(2) The Presiding Officer shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the High Court in which such Presiding Officer had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Presiding Officer"

Amendment of
section 15.

5. In section 16 of the principal Act, in sub-section (1),—

- (i) in clause (c), the word "or" occurring at the end shall be omitted;
- (ii) clause (d) and the *Explanation* thereto shall be omitted.

Repeal and
saving.

6. (1) The Employees' Provident Funds and Miscellaneous Provisions (Amendment) Ordinance, 1997, is hereby repealed.

Ord. 17 of
1997.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the Ordinance so repealed, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

Sd/-
K. R. NARAYANAN,
President.

Sd/-
RAGHBIR SINGH,
Additional Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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PART—VI**Acts of Parliament and Ordinances promulgated by the President.**

GOVERNMENT OF GUJARAT
 LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, Dated the 6th June, 1998.

No. RP/17/Ord. 28 of 97/98/E.—The following ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 26th December, 1997 is republished for general information :—

GOVERNMENT OF INDIA
 MINISTRY OF LAW AND JUSTICE
 (Legislative Department)

New Delhi, the 26th December, 1997/Pausa 5, 1919 (Saka)

THE INCOME-TAX (AMENDMENT) SECOND ORDINANCE, 1997

No. 28 OF 1997

Promulgated by the President in the Forty-eighth Year of the Republic of
 India.

An Ordinance further to amend the Income-tax, Act, 1961.

WHEREAS the Income-tax (Amendment) Ordinance, 1997 further to amend the Income-tax Act, 1961 was promulgated by the President on the 16th day of September, 1997;

AND WHEREAS the Income-tax (Amendment) Ordinance, 1997 could not be replaced by an Act of Parliament due to the dissolution of the House of the People;

AND WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Income-tax (Amendment) Second Ordinance, 1997.

(2) Save as otherwise provided in this Ordinance, it shall be deemed to have come into force on the 16th day of September, 1997.

Short title and
 commencement.

Amendment of
section 32.

2. In section 32 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), in sub-section (1), with effect from the 1st day of April, 1998,—

(a) before clause (ii), the following clause shall be inserted, namely:—

"(i) in the case of assets of an undertaking engaged in generation or generation and distribution of power, such percentage on the actual cost thereof to the assessee as may be prescribed;"

(b) for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that where an asset referred to in clause (i) or clause (ii), as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business or profession for a period of less than one hundred and eighty days in that previous year, the deduction under this sub-section in respect of such asset shall be restricted to fifty per cent. of the amount calculated at the percentage prescribed for an asset under clause (i) or clause (ii), as the case may be;"

Amendment of
section 80-IA

3. In section 80-IA of the Income-tax Act,—

(a) in sub-section (1), after the words "commercial production of mineral oil in the North-Eastern Region", the words, letters and figures "or in any part of India on or after the 1st day of April, 1997" shall be inserted with effect from the 1st day of April, 1998;

(b) in sub-section (2), in clause (iv),—

(i) in sub-clause (b), the following proviso shall be inserted with effect from the 1st day of April, 1998, namely:—

"Provided that in the case of an industrial undertaking set up in any part of India for the generation, or generation and distribution, of power, the period ending shall have effect as if for the figures "1998", the figures "2000" had been substituted.;"

(ii) in sub-clause (c), after the words "specify in this behalf", the words and letters "as industrially backward district of Category A or industrially backward district of Category B and" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1995;

(c) in sub-section (4E), after the words "North-Eastern Region", the words, letters and figures "or in any part of India on or after the 1st day of April, 1997" shall be inserted with effect from the 1st day of April, 1998;

(d) in sub-section (5), in clause (i), in sub-clause (b), after the proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1995, namely:—

"Provided further that in case of an industrial undertaking located in Category B industrially backward district, the provisions of this clause shall have effect as if for the words "five assessment years", the words "three assessment years" had been substituted.;"

(e) in sub-section (6),—

(A) for clause (ii), the following clauses shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1995, namely:—

"(ii) ten in the case of an assessee, not being a co-operative society, deriving profits and gains from an industrial undertaking specified in sub-clause (a) or sub-clause (b) or sub-clause (d) of clause (iv) of sub-section (2) or located in Category A backward districts specified in sub-clause (c) of clause (iv) of that sub-section;

(iii) eight in the case of an assessee deriving profits and gains from an industrial undertaking located in Category B districts specified in sub-clause (c) of clause (iv) of sub-section (2) and such an undertaking is not covered under clauses (i) and (ii) of this sub-section;";

(B) in clause (iv), the following proviso shall be inserted with effect from the 1st day of April, 1998, namely:—

'Provided that where the assessee begins operating and maintaining any infrastructure facility referred to in sub-clause (ii) of clause (ca) of sub-section (12), the provisions of this clause shall have effect as if for the word "twelve", the word "twenty" had been substituted;';

(C) in clause (viii), after the words "commercial production of mineral oil in the North-Eastern Region", the words, letters and figures "and other parts of the country on or after the 1st day of April, 1997" shall be inserted with effect from the 1st day of April, 1998;

(f) after sub-section (7), the following sub-section shall be inserted with effect from the 1st day of April, 1998, namely:—

"(7A) Notwithstanding anything contained in sub-section (4A), where housing or other activities are an integral part of the highway project and the profits of which are computed on such basis and manner as may be prescribed, such profit shall not be liable to tax where the profit has been transferred to a special reserve account and the same is actually utilised for the highway project excluding housing and other activities before the expiry of three years following the year in which such amount was transferred to the reserve account; and the amount remaining unutilised shall be chargeable to tax as income of the year in which transfer to reserve account took place.";

(g) in sub-section (12), for clause (ca), the following clause shall be substituted with effect from the 1st day of April, 1998, namely:—

'(ca) "infrastructure facility" means—

(i) a road, bridge, airport, port, rail system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette;

(ii) a highway including housing or other activities being an integral part of the highway project; and

(iii) a water supply project, irrigation project, sanitation and sewerage system;'

Ord.
15 of 1997.

4. (1) The Income-tax (Amendment) Ordinance, 1997, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Income-tax Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the Income-tax Act, as amended by this Ordinance.

Repeal and
Saving.

Sd/-

K. R. NARAYANAN,
President.

Sd/-

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, Dated the 6th June, 1998.

No. RP/22/Ord. 1/98/E.—The following ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 2nd January, 1998 is republished for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 2nd January, 1998/Pausa 12, 1919 (Saka)

THE ESSENTIAL COMMODITIES (SPECIAL PROVISIONS)
SECOND ORDINANCE, 1998

No. 1 OF 1998

Promulgated by the President in the Forty-eighth Year of the
Republic of India.

An Ordinance to make certain special provisions by way of amendments to the Essential Commodities Act, 1955, for a temporary period for dealing more effectively with persons indulging in hoarding and blackmarketing of, and profiteering in, essential commodities and for matters connected therewith or incidental thereto.

WHEREAS the Essential Commodities (Special Provisions) Ordinance, 1997 was promulgated by the President on the 3rd day of October, 1997;

AND WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the said Ordinance;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and
commence-
ment.

1. (1) This Ordinance may be called the Essential Commodities (Special Provisions) Second Ordinance, 1998.

(2) It shall be deemed to have come into force on the 3rd day of October, 1997 except in the States of Arunachal Pradesh, Mizoram and the Union territories of Andaman and Nicobar Islands, Dadra and Nagar Haveli and Lakshadweep; and in these States and Union territories on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States and Union territories, and any reference to the commencement of this Ordinance or any provision thereof shall be construed in relation to each State and Union territory, as a reference, to the coming into force of this Ordinance in that State or Union territory.

Act 10 of 1955
to have effect
subject to
certain special
provisions for
a temporary
period.

2. During the period of operation of this Ordinance, the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act) shall have effect subject to the amendments specified in sections 3 to 11:—

Provided that the amendments specified in sections 5 to 10 shall not apply to, or in relation to, any offence under the principal Act committed before the commencement of this Ordinance and the provisions of the principal Act shall apply to, and in relation to, such offences as if those amendments had not been made.

Amendment of
section 2.

3. In section 2 of the principal Act,—

(a) clause (ia) shall be re-numbered as clause (iia), and before clause (iia) as so re-numbered, the following clause shall be inserted, namely:—

(ia) "Code" means the Code of Criminal Procedure, 1973; and

2 of 1974.

(b) after clause (e), the following clause shall be inserted, namely:—

"(f) words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in that Code."

Amendment of
section 6A.

4. In section 6A of the principal Act, for the proviso to sub-section (2), the following proviso shall be substituted, namely:—

"Provided that in the case of any such essential commodity the retail sale price whereof has been fixed by the Central Government or a State Government under this Act or under any other law for the time being in force, the Collector may, for its equitable distribution and availability at fair prices, order the same to be sold through fair price shops at the price so fixed."

Amendment of
section 7.

5. In section 7 of the principal Act,—

(a) in sub-section (1), the proviso to sub-clause (ii) of clause (a) shall be omitted;

(b) the proviso to sub-section (2) shall be omitted;

(c) the proviso to sub-section (2A) shall be omitted;

(d) sub-section (2B) shall be omitted.

Amendment of
section 8.

6. To section 8 of the principal Act, the following proviso shall be added, namely:—

"Provided that where a person has abetted the contravention of any order for the purpose of procuring any essential commodity of the nature mentioned in sub-clause (iva) or sub-clause (v) of clause (a) of section 2 for his own use or for the use of any member of his family or for the use of any person dependent on him, and not for the purpose of carrying on any business or trade in such essential commodity, the court may,

notwithstanding anything contained in section 7 and for reasons to be mentioned in the judgment, impose a sentence of fine only.”

7. For section 10A of the principal Act, the following section shall be substituted, namely:—

Amendment of section 10A.

“10A. Notwithstanding anything contained in the Code, every offence punishable under—

Provision as to cognizance and bail.

(a) this Act shall be cognizable;

(b) this Act, except the offence punishable under sub-clause (i) of clause (a) of sub-section (1) of section 7, shall be non-bailable;

(c) sub-clause (i) of clause (a) of sub-section (1) of section 7, if committed more than once, shall be non-bailable.”

8. After section 10A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 10AA.
Power to arrest.

“10AA. Notwithstanding anything contained in the Code, no officer below the rank of an officer-in-charge of a police station or any police officer authorised by him in this behalf in writing, shall arrest any person accused of committing an offence punishable under this Act.”

9. Section 12 of the principal Act shall be omitted.

Omission of section 12

10. For section 12A of the principal Act, the following sections shall be substituted, namely:—

Substitution of new section for section 12A.

“12A. (1) The State Government may, for the purpose of providing speedy trial of the offences under this Act, by notification in the Official Gazette, constitute as many Special Courts as may be necessary for such area or areas as may be specified in the notification.

Constitution of Special Court.

(2) A Special Court shall consist of a single judge who shall be appointed by the High Court upon a request made by the State Government.

Explanation.—In this sub-section, the word “appoint” shall have the meaning given to it in the *Explanation* to section 9 of the Code.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless—

(a) he is qualified for appointment as a judge of a High Court, or

(b) he has, for a period of not less than one year, been a Sessions Judge or an Additional Sessions Judge.

12AA. (1) Notwithstanding anything contained in the Code,—

Offences triable by Special Courts.

(a) all offences under this Act shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court;

(b) where a person accused of or suspected of the commission of an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code, such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate:

Provided that where such Magistrate considers—

- (i) when such person is forwarded to him as aforesaid; or
- (ii) upon or at any time before the expiry of the period of detention authorised by him;

that the detention of such person is unnecessary, he may, if he is satisfied that the case falls under the proviso to section 8, order the release of such person on bail and if he is not so satisfied, he shall order such person to be forwarded to the Special Court having jurisdiction;

(c) the Special Court may, subject to the provisions of clause (d), exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code in relation to an accused person in such case who has been forwarded to him under that section;

(d) save as aforesaid no person accused of or suspected of the commission of an offence under this Act shall be released on bail by any court other than a special Court or the High Court;

(e) a Special Court may, upon a perusal of police report of the facts constituting an offence under this Act, take cognizance of that offence without the accused being committed to it for trial;

(f) all offences under this Act shall be tried in a summary way and the provisions of sections 262 to 265 (both inclusive) of the Code shall, as far as may be, apply to such trial;

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Special Court to pass a sentence of imprisonment for a term not exceeding two years.

(2) When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act, with which the accused may, under the Code, be charged at the same trial;

Provided that such other offence is, under any other law for the time being in force, triable in a summary way;

Provided further that in the case of any conviction for such other offence in such trial, it shall not be lawful for the Special Court to pass a sentence of imprisonment for a term exceeding the term provided for conviction in a summary trial under such other law.

(3) A Special Court may, with a view to obtaining the evidence of any person suspected to have been directly or indirectly concerned in, or privy to, an offence under this Act, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof and any pardon so tendered shall, for the purposes of section 308 of the Code, be deemed to have been tendered under section 307 thereof.

(4) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to "Magistrate" in that section included also a reference to a "Special Court" constituted under section 12A.

12AB. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Sessions trying cases within the local limits of the jurisdiction of the High Court.

12AC. Save as otherwise provided in this Act, the provisions of the Code (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Sessions and the person conducting a prosecution before a Special Court, shall be deemed to be a Public Prosecutor.

Application of Code to proceedings before a Special Court.

11. After section 15A of the principal Act, the following section shall be inserted namely:—

Insertion of new section 15AA.

"15AA. Notwithstanding anything contained in any other law, any prosecution in respect of any offence under the principal Act, committed during the period commencing on the 1st day of September, 1997, and ending with the date of commencement of this Ordinance, shall be instituted only in the Special Court and any prosecution in respect of such offence pending in any court shall stand transferred to the Special Court."

Transfer of cases.

Ord. 21 of 1997.

12. (1) The Essential Commodities (Special Provisions) Ordinance, 1997 is hereby repealed.

Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the Principal Act, as amended by the said Ordinance so repealed, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

Sd/-

K. R. NARAYANAN,
President.

Sd/-

RAGHBIR SINGH,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.

Extra No. 14



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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WEDNESDAY, JULY 29, 1998/SRAVANA 7, 1920

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 27th July, 1998.

No. RP/68/Act. 23 of 97/97/E.—The following Act of Parliament is re-published for general information.

GOVERNMENT OF INDIA
 MINISTRY OF LAW AND JUSTICE
 (Legislative Department)

New Delhi, the 29th March, 1997/Chaitra 8, 1919 (Saka)

The following Act of Parliament received the assent of the President on the 28th March, 1997 and is hereby published for general information.

THE RESERVE BANK OF INDIA (AMENDMENT) ACT, 1997

(Act No. 23 of 1997) AN ACT (28th March, 1997)

further to amend the Reserve Bank of India Act, 1934.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Reserve Bank of India (Amendment) Act, 1997.

Short title and
commence-
ment.

(2) The provisions of this Act, other than section 9, shall be deemed to have come into force on the 9th day of January, 1997, and section 9 shall come into force on the 1st day of April, 1997.

2 of 1934.

2. In section 45-I of the Reserve Bank of India Act, 1934 (hereinafter referred to as the principal Act),—

Amendment of
section 45-I.

(1) clause (i) shall be renumbered as clause (aa) and before clause (aa) as so renumbered, the following clause shall be inserted, namely:—

(a) "business of a non-banking financial institution" means carrying on of the business of a financial institution referred to in clause (c) and includes business of a non-banking financial company referred to in clause (f);

(2) in clause (c),—

(i) for the portion beginning with the words "but does not include any institution, which,—", and ending with the brackets, letter and words "(a) agricultural operations; or", the following shall be substituted, namely:—

"but does not include any institution, which carries on as its principal business,—

(a) agricultural operations; or

(aa) industrial activity; or";

(ii) the following *Explanation* shall be inserted at the end, namely:—

Explanation.—For the purposes of this clause, "industrial activity" means any activity specified in sub-clauses (i) to (xviii) of clause (c) of section 2 of the Industrial Development Bank of India Act, 1964; 18 of 1964.

(3) after clause (e), the following clause shall be inserted, namely:—

(f) "non-banking financial company" means—

(i) a financial institution which is a company;

(ii) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner;

(iii) such other non-banking institution or class of such institutions, as the Bank may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.

Insertion of
new sections
45-IA, 45-IB
and 45-IC.

3. After section 45-I of the principal Act, the following sections shall be inserted, namely:—

Requirement of
registration and
net owned fund.

"45-IA. (1) Notwithstanding anything contained in this Chapter or in any other law for the time being in force, no non-banking financial company shall commence or carry on the business of a non-banking financial institution without—

(a) obtaining a certificate of registration issued under this Chapter; and

(b) having the net owned fund of twenty-five lakh rupees or such other amount, not exceeding two hundred lakh rupees, as the Bank may, by notification in the Official Gazette, specify.

(2) Every non-banking financial company shall make an application for registration to the Bank in such form as the Bank may specify:

Provided that a non-banking financial company in existence on the commencement of the Reserve Bank of India (Amendment) Act, 1997 shall make an application for registration to the Bank before the expiry of six months from such commencement and notwithstanding anything contained in sub-section (1) may continue to carry on the business of a non-banking financial institution until a

certificate of registration is issued to it or rejection of application for registration is communicated to it.

(3) Notwithstanding anything contained in sub-section (1), a non-banking financial company in existence on the commencement of the Reserve Bank of India (Amendment) Act, 1997 and having a net owned fund of less than twenty-five lakh rupees may, for the purpose of enabling such company to fulfil the requirement of the net owned fund, continue to carry on the business of a non-banking financial institution—

(i) for a period of three years from such commencement; or

(ii) for such further period as the Bank may, after recording the reasons in writing for so doing, extend,

subject to the condition that such company shall, within three months of fulfilling the requirement of the net owned fund, inform the Bank about such fulfilment:

Provided that the period allowed to continue business under this sub-section shall in no case exceed six years in the aggregate.

(4) The Bank may, for the purpose of considering the application for registration, require to be satisfied by an inspection of the books of the non-banking financial company or otherwise that the following conditions are fulfilled:—

(a) that the non-banking financial company is or shall be in a position to pay its present or future depositors in full as and when their claims accrue;

(b) that the affairs of the non-banking financial company are not being or are not likely to be conducted in a manner detrimental to the interest of its present or future depositors;

(c) that the general character of the management or the proposed management of the non-banking financial company shall not be prejudicial to the public interest or the interest of its depositors;

(d) that the non-banking financial company has adequate capital structure and earning prospects;

(e) that the public interest shall be served by the grant of certificate of registration to the non-banking financial company to commence or to carry on the business in India;

(f) that the grant of certificate of registration shall not be prejudicial to the operation and consolidation of the financial sector consistent with monetary stability, economic growth and considering such other relevant factors which the Bank may, by notification in the Official Gazette, specify; and

(g) any other condition, fulfilment of which in the opinion of the Bank, shall be necessary to ensure that the commencement of or carrying on of the business in India by a non-banking financial company shall not be prejudicial to the public interest or in the interest of the depositors.

(5) The Bank may, after being satisfied that the conditions specified in sub-section (4) are fulfilled, grant a certificate of registration subject to such conditions which it may consider fit to impose.

(6) The Bank may cancel a certificate of registration granted to a non-banking financial company under this section if such company—

(i) ceases to carry on the business of a non-banking financial institution in India; or

(ii) has failed to comply with any condition subject to which the certificate of registration had been issued to it; or

(iii) at any time fails to fulfil any of the conditions referred to in clauses (a) to (g) of sub-section (4); or

(iv) fails—

(a) to comply with any direction issued by the Bank under the provisions of this Chapter; or

(b) to maintain accounts in accordance with the requirements of any law or any direction or order issued by the Bank under the provisions of this Chapter; or

(c) to submit or offer for inspection its books of account and other relevant documents when so demanded by an inspecting authority of the Bank; or

(v) has been prohibited from accepting deposit by an order made by the Bank under the provisions of this Chapter and such order has been in force for a period of not less than three months:

Provided that before cancelling a certificate of registration on the ground that the non-banking financial company has failed to comply with the provisions of clause (ii) or has failed to fulfil any of the conditions referred to in clause (iii) the Bank, unless it is of the opinion that the delay in cancelling the certificate of registration shall be prejudicial to public interest or the interest of the depositors or the non-banking financial company, shall give an opportunity to such company on such terms as the Bank may specify for taking necessary steps to comply with such provision or fulfilment of such condition:

Provided further that before making any order of cancellation of certificate of registration, such company shall be given a reasonable opportunity of being heard.

(7) A company aggrieved by the order of rejection of application for registration or cancellation of certificate of registration may prefer an appeal within a period of thirty days from the date on which such order of rejection or cancellation is communicated to it, to the Central Government and the decision of the Central Government where an appeal has been preferred to it, or of the Bank where no appeal has been preferred, shall be final:

Provided that before making any order of rejection of appeal, such company shall be given a reasonable opportunity of being heard.

Explanation.—For the purposes of this section,—

(1) "net owned fund" means—

(a) the aggregate of the paid-up equity capital and free reserves as disclosed in the latest balance-sheet of the company after deducting therefrom—

- (i) accumulated balance of loss;
 - (ii) deferred revenue expenditure; and
 - (iii) other intangible assets; and
- (b) further reduced by the amounts representing—

- (1) investments of such company in shares of—
 - (i) its subsidiaries;
 - (ii) companies in the same group;
 - (iii) all other non-banking financial companies; and
- (2) the book value of debentures, bonds, outstanding loans and advances (including hire-purchase and lease finance) made to, and deposits with,—
 - (i) subsidiaries of such company; and
 - (ii) companies in the same group,

to the extent such amount exceeds ten per cent. of (a) above.

(II) "subsidiaries" and "companies in the same group" shall have the same meanings assigned to them in the Companies Act, 1956.

1 of 1956.

45-IB. (1) Every non-banking financial company shall invest and continue to invest in India in unencumbered approved securities, valued at a price not exceeding the current market price of such securities, an amount which, at the close of business on any day, shall not be less than five per cent. or such higher percentage not exceeding twenty-five per cent. as the Bank may, from time to time and by notification in the Official Gazette, specify, of the deposits outstanding at the close of business on the last working day of the second preceding quarter:

Maintenance of percentage of assets.

Provided that the Bank may specify different percentages of investment in respect of different classes of non-banking financial companies.

(2) For the purpose of ensuring compliance with the provisions of this section, the Bank may require every non-banking financial company to furnish a return to it in such form, in such manner and for such period as may be specified by the Bank.

(3) If the amount invested by a non-banking financial company at the close of business on any day falls below the rate specified under sub-section (1), such company shall be liable to pay to the Bank, in respect of such shortfall, a penal interest at a rate of three per cent. per annum above the bank rate on such amount by which the amount actually invested falls short of the specified percentage, and where the shortfall continues in the subsequent quarters, the rate of penal interest shall be five per cent. per annum above the bank rate on such shortfall for each subsequent quarter.

(4) (a) The penal interest payable under sub-section (3) shall be payable within a period of fourteen days from the date on which a notice issued by the Bank demanding payment of the same is served on the non-banking financial company and, in the event of a failure of the non-banking financial company to pay the same within such period, penalty may be levied by a direction of the principal civil court having jurisdiction in the area where an office of the defaulting non-banking financial company is situated and such direction shall be made only upon an application made in this behalf to the court by the Bank; and

(b) when the court makes a direction under clause (a), it shall issue a certificate specifying the sum payable by the non-banking financial company and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a suit.

(5) Notwithstanding anything contained in this section, if the Bank is satisfied that the defaulting non-banking financial company had sufficient cause for its failure to comply with the provisions of sub-section (1), it may not demand the payment of the penal interest.

Explanation.—For the purposes of this section,—

(i) “approved securities” means securities of any State Government or of the Central Government and such bonds, both the principal whereof and the interest whereon shall have been fully and unconditionally guaranteed by any such Government;

(ii) “unencumbered approved securities” includes the approved securities lodged by the non-banking financial company with another institution for an advance or any other arrangement to the extent to which such securities have not been drawn against or availed of or encumbered in any manner;

(iii) “quarter” means the period of three months ending on the last day of March, June, September or December.

Reserve fund.

45-IC (1) Every non-banking financial company shall create a reserve fund and transfer therein a sum not less than twenty per cent. of its net profit every year as disclosed in the profit and loss account and before any dividend is declared.

(2) No appropriation of any sum from the reserve fund shall be made by the non-banking financial company except for the purpose as may be specified by the Bank from time to time and every such appropriation shall be reported to the Bank within twenty-one days from the date of such withdrawal:

Provided that the Bank may, in any particular case and for sufficient cause being shown, extend the period of twenty-one days by such further period as it thinks fit or condone any delay in making such report.

(3) Notwithstanding anything contained in sub-section (1), the Central Government may, on the recommendation of the Bank and having regard to the adequacy of the paid-up capital and reserves of a non-banking financial company in relation to its deposit liabilities, declare by order in writing that the provisions of sub-section (1) shall not be applicable to the non-banking financial company for such period as may be specified in the order:

Provided that no such order shall be made unless the amount in the reserve fund under sub-section (1) together with the amount in the share premium account is not less than the paid-up capital of the non-banking financial company.

Insertion of
new section
45JA.

Power of Bank
to determine
policy and
issue
directions.

4. After section 45J of the principal Act, the following section shall be inserted, namely:—

“45JA. (1) If the Bank is satisfied that, in the public interest or to regulate the financial system of the country to its advantage or to prevent the affairs of any non-banking financial company being conducted in a manner detrimental to the interest of the depositors or in a manner prejudicial to the interest of the non-banking financial company, it is necessary or expedient so to do, it may determine the policy and give

directions to all or any of the non-banking financial companies relating to income recognition, accounting standards, making of proper provision for bad and doubtful debts, capital adequacy based on risk weights for assets and credit conversion factors for off balance-sheet items and also relating to deployment of funds by a non-banking financial company or a class of non-banking financial companies or non-banking financial companies generally, as the case may be, and such non-banking financial companies shall be bound to follow the policy so determined and the directions so issued.

(2) Without prejudice to the generality of the powers vested under sub-section (1), the Bank may give directions to non-banking financial companies generally or to a class of non-banking financial companies or to any non-banking financial company in particular as to—

(a) the purpose for which advances or other fund based or non-fund based accommodation may not be made; and

(b) the maximum amount of advances or other financial accommodation or investment in shares and other securities which, having regard to the paid-up capital, reserves and deposits of the non-banking financial company and other relevant considerations, may be made by that non-banking financial company to any person or a company or to a group of companies.”

5. In section 45MA of the principal Act,—

Amendment of
section 45MA.

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The Bank may, on being satisfied that it is necessary so to do, in the public interest or in the interest of the depositors or for the purpose of proper assessment of the books of account, issue directions to any non-banking financial company or any class of non-banking financial companies or non-banking financial companies generally or to the auditors of such non-banking financial company or companies relating to balance-sheet, profit and loss account, disclosure of liabilities in the books of account or any matter relating thereto.”

(ii) in sub-section (2), for the words “a non-banking institution, being a company”, the words “a non-banking financial company” shall be substituted;

(iii) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) Where the Bank is of the opinion that it is necessary so to do in the public interest or in the interest of the non-banking financial company or in the interest of the depositors of such company, it may at any time by order direct that a special audit of the accounts of the non-banking financial company in relation to any such transaction or class of transactions or for such period or periods, as may be specified in the order, shall be conducted and the Bank may appoint an auditor or auditors to conduct such special audit and direct the auditor or the auditors to submit the report to it.

(4) The remuneration of the auditors as may be fixed by the Bank, having regard to the nature and volume of work involved in the audit and the expenses of or incidental to the audit, shall be borne by the non-banking financial company so audited.”

6. After section 45MA of the principal Act, the following sections shall be inserted, namely:—

Insertion of new
sections 45MB
and 45MC.

Power of Bank
to prohibit
acceptance of
deposit and
alienation of
assets.

"45MB. (1) If any non-banking financial company violates the provisions of any section or fails to comply with any direction or order given by the Bank under any of the provisions of this Chapter, the Bank may prohibit the non-banking financial company from accepting any deposit.

(2) Notwithstanding anything to the contrary contained in any agreement or instrument or any law for the time being in force, the Bank, on being satisfied that it is necessary so to do in the public interest or in the interest of the depositors, may direct, the non-banking financial company against which an order prohibiting from accepting deposit has been issued, not to sell, transfer, create charge or mortgage or deal in any manner with its property and assets without prior written permission of the Bank for such period not exceeding six months from the date of the order.

Power of Bank
to file winding
up petition.

45MC. (1) The Bank, on being satisfied that a non-banking financial company,—

(a) is unable to pay its debt; or

(b) has by virtue of the provisions of section 45-IA become disqualified to carry on the business of a non-banking financial institution; or

(c) has been prohibited by the Bank from receiving deposit by an order and such order has been in force for a period of not less than three months; or

(d) the continuance of the non-banking financial company is detrimental to the public interest or to the interest of the depositors of the company,

may file an application for winding up of such non-banking financial company under the Companies Act, 1956.

1 of 1956.

(2) A non-banking financial company shall be deemed to be unable to pay its debt if it has refused or has failed to meet, within five working days any lawful demand made at any of its offices or branches and the Bank certifies in writing that such company is unable to pay its debt.

(3) A copy of every application made by the Bank under sub-section (1) shall be sent to the Registrar of Companies.

(4) All the provisions of the Companies Act, 1956 relating to winding up of a company shall apply to a winding up proceeding initiated on the application made by the Bank under this provision."

1 of 1956.

Insertion of
new sections
45NB and
45NC.

7. After section 45NA of the principal Act, the following sections shall be inserted, namely:—

Disclosure of
information.

"45NB. (1) Any information relating to a non-banking financial company,—

(i) contained in any statement or return submitted by such company under the provisions of this Chapter; or

(ii) obtained through audit or inspection or otherwise by the Bank,

shall be treated as confidential and shall not, except otherwise provided in this section, be disclosed.

(2) Nothing in this section shall apply to—

(a) the disclosure by any non-banking financial company, with the previous permission of the Bank, of any information furnished to the Bank under sub-section (1);

(b) the publication by the Bank, if it considers necessary in the public interest so to do, of any information collected by it under sub-section (1) in such consolidated form as it may think fit without disclosing the name of any non-banking financial company or its borrowers;

(c) the disclosure or publication by the non-banking financial company or by the Bank of any such information to any other non-banking financial company or in accordance with the practice and usage customary amongst such companies or as permitted or required under any other law:

Provided that any such information received by a non-banking financial company under this clause shall not be published except in accordance with the practice and usage customary amongst companies or as permitted or required under any other law.

(3) Notwithstanding anything contained in this Act or in any other law for the time being in force, the Bank, if it is satisfied that, in the public interest or in the interest of the depositors or the non-banking financial company or to prevent the affairs of any non-banking financial company being conducted in a manner detrimental to the interest of the depositors, it is expedient so to do, may, either on its own motion or on being requested, furnish or communicate any information relating to the conduct of business by any non-banking financial company to any authority constituted under any law.

(4) Notwithstanding anything contained in any law for the time being in force, no court or tribunal or other authority shall compel the Bank to produce or to give inspection of any statement or other material obtained by the Bank under any provisions of this Chapter.

45NC. The Bank, on being satisfied that it is necessary so to do, may declare by notification in the Official Gazette that any or all of the provisions of this Chapter shall not apply to a non-banking institution or a class of non-banking institutions or a non-banking financial company or to any class or non-banking financial companies either generally or for such period as may be specified, subject to such conditions, limitations or restrictions as it may think fit to impose.”

Power of Bank to exempt.

8. After section 45Q of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 45QA and 45QB.

“45QA. (1) Every deposit accepted by a non-banking financial company, unless renewed, shall be repaid in accordance with the terms and conditions of such deposit.

Power of Company Law Board to order repayment of deposit.

(2) Where a non-banking financial company has failed to repay any deposit or part thereof in accordance with the terms and conditions of such deposit, the Company Law Board constituted under section 10E of the Companies Act, 1956 may, if it is satisfied, either on its own motion or on an application of the depositor, that it is necessary so to do to safeguard the interests of the company, the depositors or in the public interest, direct, by order, the non-banking financial company to make repayment of such deposit or part thereof forthwith or within such time and subject to such conditions as may be specified in the order:—

Provided that the Company Law Board may, before making any order under this sub-section, give a reasonable opportunity of being heard to the non-banking financial company and the other persons interested in the matter.

Nomination by
depositors.

45QB. (1) Where a deposit is held by a non-banking institution to the credit of one or more persons, the depositor or, as the case may be, all the depositors together may nominate, in the manner prescribed by rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949, one person to whom in the event of the death of the sole depositor or the death of all the depositors, the amount of deposit may be returned by the non-banking institution.

10 of 1949.

(2) Notwithstanding anything contained in any other law for the time being in force, or in any disposition, whether testamentary or otherwise, in respect of such deposit, where a nomination made purports to confer on any person the right to receive the amount of deposit from the non-banking institution, the nominee shall, on the death of the sole depositor or, as the case may be, on the death of all the depositors, become entitled to all the rights of the sole depositor or, as the case may be, of the depositors, in relation to such deposit to the exclusion of all other persons, unless the nomination is varied or cancelled in the manner prescribed by rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949.

10 of 1949.

(3) Where the nominee is a minor, it shall be lawful for the depositor making the nomination to appoint, in the manner prescribed by rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949, any person to receive the amount of deposit in the event of his death during the minority of the nominee.

10 of 1949.

(4) Payment by a non-banking institution in accordance with the provisions of this section shall constitute a full discharge to the non-banking institution of its liability in respect of the deposit:

Provided that nothing contained in this sub-section shall affect the right or claim which any person may have against the person to whom any payment is made under this section.

(5) No notice of the claim of any person, other than the person or persons in whose name a deposit is held by a non-banking institution, shall be receivable by the non-banking institution, nor shall the non-banking institution be bound by any such notice even though expressly given to it:

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to such deposit is produced before a non-banking institution, the non-banking institution shall take due note of such decree, order, certificate or other authority."

Substitution
of new section
for section 45S.

9. For section 45S of the principal Act, the following section shall be substituted, namely:—

Deposits not
to be accepted
in certain cases.

"45S. (1) No person, being an individual or a firm or an unincorporated association of individuals shall, accept any deposit—

(i) if his or its business wholly or partly includes any of the activities specified in clause (c) of section 45-I; or

(ii) if his or its principal business is that of receiving of deposits under any scheme or arrangement or in any other manner, or lending in any manner:

Provided that nothing contained in this sub-section shall apply to the receipt of money by an individual by way of loan from any of his relatives or to the receipt of money by a firm by way of loan from the relative or relatives of any of the partners.

(2) Where any person referred to in sub-section (1) holds any deposit on the 1st day of April, 1997 which is not in accordance with sub-section (1), such deposit shall be repaid by that person immediately after such deposit becomes due for repayment or within three years from the date of such commencement, whichever is earlier:

Provided that if the Bank is satisfied on an application made by any person to the Bank that such person is unable to repay a part of the deposits for reasons beyond his control or such repayment shall cause extreme hardship to him, it may, by an order in writing, extend such period by a period not exceeding one year subject to such conditions as may be specified in the order.

(3) On and from the 1st day of April, 1997, no person referred to in sub-section (1) shall issue or cause to be issued any advertisement in any form for soliciting deposit.

Explanation.—For the purposes of this section, a person shall be deemed to be a relative of another if, and only if,—

(i) they are members of a Hindu undivided family; or

(ii) they are husband and wife; or

(iii) the one is related to the other in the manner indicated in the List of Relatives below:—

List of Relatives

1. Father, 2. Mother (including step-mother), 3. Son (including step-son), 4. Son's wife, 5. Daughter (including step-daughter), 6. Father's father, 7. Father's mother, 8. Mother's mother, 9. Mother's father, 10. Son's son, 11. Son's son's wife, 12. Son's daughter, 13. Son's daughter's husband, 14. Daughter's husband, 15. Daughter's son, 16. Daughter's son's wife, 17. Daughter's daughter, 18. Daughter's daughter's husband, 19. Brother (including step-brother), 20. Brother's wife, 21. Sister (including step-sister), 22. Sister's husband."

10. In section 58B of the principal Act,—

Amendment of
section 58B.

(a) after sub-section (4), the following sub-sections shall be inserted, namely:—

"(4A) If any person contravenes the provisions of sub-section (1) of section 45-IA, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

(4AA) If any auditor fails to comply with any direction given or order made by the Bank under section 45MA, he shall be punishable with fine which may extend to five thousand rupees.

(4AAA) Whoever fails to comply with any order made by the Company Law Board under sub-section (2) of section 45QA, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine of not less than rupees fifty for every day during which such non-compliance continues."

(b) in sub-section (5),—

(i) after the words "If any person", the expression "other than an auditor" shall be inserted;

(ii) after clause (a), the following clause shall be inserted, namely:—

“(aa) fails to comply with any direction given or order made by the Bank under any of the provisions of Chapter III-B; or”.

Insertion of new
section 58G.

11. After section 58F of the principal Act, the following section shall be inserted, namely:—

Power of Bank
to impose fine.

“58G. (1) Notwithstanding anything contained in section 58B, if the contravention or default of the nature referred to in section 58B is committed by a non-banking financial company, the Bank may impose on such non-banking financial company—

(a) a penalty not exceeding five thousand rupees; or

(b) where the contravention or default is under sub-section (4A) or clause (a) or clause (aa) of sub-section (5) of section 58B, a penalty not exceeding five lakh rupees or twice the amount involved in such contravention or default, where the amount is quantifiable, whichever is more; and where such contravention or default is a continuing one, further penalty which may extend to twenty-five thousand rupees for every day, after the first, during which the contravention or default continues.

(2) For the purpose of imposing penalty under sub-section (1), the Bank shall serve a notice on the non-banking financial company requiring it to show cause why the amount specified in the notice should not be imposed as a penalty and a reasonable opportunity of being heard shall also be given to such non-banking financial company.

(3) Any penalty imposed by the Bank under this section shall be payable within a period of thirty days from the date on which notice issued by the Bank demanding payment of the sum is served on the non-banking financial company and, in the event of failure of the non-banking financial company to pay the sum within such period, may be levied on a direction made by the principal civil court having jurisdiction in the area where the registered office or the head office of the non-banking financial company is situated:

Provided that no such direction shall be made, except on an application made by an officer of the Bank authorised in this behalf, to by the principal civil court.

(4) The court which makes a direction under sub-section (3), shall issue a certificate specifying the sum payable by the non-banking financial company and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit.

(5) No complaint shall be filed against any non-banking financial company in any court of law pertaining to any contravention or default in respect of which any penalty has been imposed by the Bank under this section.

(6) Where any complaint has been filed against a non-banking financial company in a court in respect of contravention or default of the nature referred to in section 58B, no proceedings for imposition of penalty against that non-banking financial company shall be taken under this section.”

Amendment of
the First
Schedule.

12. In the First Schedule to the principal Act, for items 1 and 2, the following items shall be substituted, namely:—

“1. The Western Area shall consist of the States of Goa, Gujarat, Madhya Pradesh and Maharashtra and the Union territories of Dadra and Nagar Haveli and Daman and Diu.

2. The Eastern Area shall consist of the States of Arunachal Pradesh, Assam, Bihar, Manipur, Meghalaya, Mizoram, Nagaland, Orissa, Sikkim, Tripura and West Bengal and the Union territories of Andaman and Nicobar Islands."

Ord. 2 of 1997.

13. (1) The Reserve Bank of India (Amendment) Ordinance, 1997 is hereby repealed.

Repeal and saving.

Ord. 2 of 1997.

(2) Notwithstanding the repeal of the Reserve Bank of India (Amendment) Ordinance, 1997, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

Sd/—

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government



The Gujarat Government Gazette
EXTRAORDINARY
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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 27th July, 1998.

No. RP/75/Act. 15 of 97/97/E.—The following Act of Parliament is re-published for general information.

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
 (Legislative Department)

New Delhi, the 25th March, 1997/Chaitra 4, 1919 (Saka)

The following Act of Parliament received the assent of the President on the 25th March, 1997 and is hereby published for general information.

THE PORT LAWS (AMENDMENT) ACT, 1997

(Act No. 15 of 1997) **AN ACT** (25th March, 1997)

further to amend the Indian Ports Act, 1908 and the Major Port Trusts Act, 1963.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

CHAPTER I**PRELIMINARY**

1. (1) This Act may be called the Port Laws (Amendment) Act, 1997.
- (2) It shall be deemed to have come into force on the 9th day of January, 1997.

Short title
and com-
mencement.

CHAPTER II**AMENDMENTS TO THE INDIAN PORTS ACT, 1908**

2. In section 3 of the Indian Ports Act, 1908 (hereafter in this Chapter referred to as the Ports Act), for clause (1), the following clause shall be substituted, namely:—

Amendment
of section 3.

'(1) "Magistrate" means a person exercising powers under the Code of Criminal Procedure, 1973;'

15 of 1908.

2 of 1974.

Amendment of
section 6.

3. In section 6 of the Ports Act, in sub-section (I),—

(i) in clause (j), after the words "rates to be paid", the words "in a port other than a major port" shall be inserted;

(ii) for clause (jj), the following clauses shall be substituted, namely:—

"(jj) for regulating the use of piers, jetties, landing places, wharves, quays, warehouses and sheds when belonging to the Government;

(jja) for fixing the rates to be paid for the use of piers, jetties, landing places, wharves, quays, warehouses and sheds of any port, other than a major port, when belonging to the Government;"

(iii) for clause (k), the following clauses shall be substituted, namely:—

"(k) for licensing and regulating catamarans plying for hire, and flats and cargo, passenger and other boats plying, whether for hire or not, and whether regularly or only occasionally, in or partly within and partly without any such port, and for licensing and regulating the crews of any such vessels; and for determining the quantity of cargo or number of passengers or of the crew to be carried by any such vessels and the conditions under which such vessels shall be compelled to ply for hire and further for conditions under which any licence may be revoked;

(kk) for providing for the fees payable in respect of the services specified in clause (k) for any port, other than a major port;"

Amendment of
section 33.

4. In section 33 of the Ports Act,—

(a) in sub-section (1), after the words "in each of the ports mentioned in the First Schedule", the words "other than a major port" shall be inserted;

(b) in sub-section (3), after the words "declares any other port", the words "other than a major port" shall be inserted.

Substitution of
new section for
section 34.
Variation of
port dues by
Government.

5. For section 34 of the Ports Act, the following section shall be substituted, namely:—

"34. The Government may after consulting,—

(a) in case of ports other than major ports, the authority appointed under section 36;

(b) in case of major ports, the Authority constituted under section 47A of the Major Port Trusts Act, 1963,

38 of 1963.

exempt, subject to such conditions, if any, as it thinks fit to impose, any vessel or class of vessels entering a port subject to this Act from payment of port-dues and cancel the exemption, or may vary the rates at which port-dues are to be fixed in the port, in such manner as, having regard to the receipts and charges on account of the port, it thinks expedient, by reducing or raising the dues, or any of them or may extend the periods for which any vessel or class of vessels entering a port shall be exempt from liability to pay port-dues:

Provided that the rates shall not in any case exceed the amount authorized to be taken by or under this Act."

Amendment of
section 35.

6. In section 35 of the Ports Act, in sub-section (I), after the words "Within any port subject to this Act", the words "not being a major port" shall be inserted.

Amendment of
section 46.

7. In section 46 of the Ports Act, after the words "A vessel entering any port", the words "not being a major port" shall be inserted.

Amendment of
section 47.

8. In section 47 of the Ports Act, after the words "When a vessel enters a port", the words "not being a major port" shall be inserted.

9. In the First Schedule to the Ports Act, in Part I, entries under columns 2, 3 and 4 shall be omitted.

Amendment of First Schedule.

CHAPTER III

AMENDMENTS TO THE MAJOR PORT TRUSTS ACT, 1963

33 of 1963.

10. In section 2 of the Major Port Trusts Act, 1963 (hereafter in this Chapter referred to as the Major Port Act), after clause (a), the following clause shall be inserted, namely:—

Amendment of section 2.

“(aa) “Authority” means the Tariff Authority for Major Ports constituted under section 47A;”

11. In section 29 of the Major Port Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 29.

“(3) Notwithstanding anything contained in clause (a) of sub-section (1), the right to fix rates vested in the Board shall vest in the Authority as from the date it is constituted under sub-section (1) of section 47A.”

12. In section 42 of the Major Port Act, in sub-section (4), for the words and figures “leviable according to the scale framed under section 48 or section 49 or section 50”, the words “specified by the Authority, by notification in the Official Gazette” shall be substituted.

Amendment of section 42.

10 of 1940.
26 of 1996.

13. In section 47 of the Major Port Act, in sub-section (3), in clause (i), for the words and figures “The Arbitration Act, 1940”, the words and figures “The Arbitration and Conciliation Act, 1996” shall be substituted.

Amendment of section 47.

14. After Chapter V of the Major Port Act, the following Chapter shall be inserted, namely:—

Insertion of new Chapter VA.

“CHAPTER VA

TARIFF AUTHORITY FOR MAJOR PORTS

47A. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint there shall be constituted for the purposes of this Act an Authority to be called the Tariff Authority for Major Ports.

Constitution and incorporation of Tariff Authority for Major Ports.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The head office of the Authority shall be at such place as the Central Government may decide from time to time.

(4) The Authority shall consist of the following Members to be appointed by the Central Government, namely :—

(a) a Chairperson from amongst persons who is or who has been a Secretary to the Government of India or has held any equivalent post in the Central Government and who has experience in the management and knowledge of the functioning of the ports;

(b) a Member from amongst economists having experience of not less than fifteen years in the field of transport or foreign trade;

(c) a Member from amongst persons having experience of not less than fifteen years in the field of finance with special reference to investment or cost analysis in the Government or in any financial institution or industrial or services sector.

47B. (1) The Chairperson or a Member shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

Term of office, conditions of service, etc., of Chairperson and other Members.

(2) The salaries and allowances payable to and other conditions of service of the Chairperson and the other Members shall be such as may be prescribed by the Central Government.

(3) Notwithstanding anything contained in sub-section (1), the Chairperson or a Member may—

(a) relinquish his office by giving in writing to the Central Government a notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 47D.

(4) If a casual vacancy occurs in the office of the Chairperson or any Member, whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity, such vacancy shall be filled up by the Central Government by making a fresh appointment and the Chairperson or the Member so appointed shall hold office for the remainder of the term of office of the person in whose place he is so appointed.

47C. A person shall be disqualified for being appointed as a Chairperson or as a Member of the Authority if he is disqualified for being chosen as a Trustee under section 6.

47D. (1) The Central Government shall remove from the Authority the Chairperson or any Member, if he—

(a) becomes subject to any disqualification under section 47C;

(b) refuses to act or becomes incapable of acting;

(c) in the opinion of the Central Government has so abused his position as to render his continuance in office detrimental to the public interest, or

(d) is otherwise unsuitable to continue as the Chairperson or as a Member.

(2) The Central Government may suspend the Chairperson or any Member pending an inquiry against him.

(3) No order of removal under this section shall be made unless the Chairperson or the Member concerned, as the case may be, has been given an opportunity to submit his explanation to the Central Government and when such order is passed, the seat of the Chairperson or Member removed shall be declared vacant.

(4) The Chairperson or a Member who has been removed under this section shall not be eligible for re-appointment as a Chairperson or as a Member or in any other capacity under the Authority.

47E. The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be specified by regulations.

47F. All orders and decisions of the Authority shall be authenticated by the signature of the Chairperson or any other Member authorised by the Authority in this behalf.

47G. No act or proceeding of the Authority shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in, the constitution of the Authority;

or

(b) any defect in the appointment of a person acting as a Chairperson or a Member of the Authority; or

Disqualification for the office of Chairperson and Member.

Removal, etc., of Chairperson and Members.

Meetings.

Authentication of all orders and decisions of the Authority.

Vacancy, etc., not to invalidate proceedings of the Authority.

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

47H. (1) The Authority may appoint officers and such other employees as it considers necessary for the efficient discharge of its functions under this Act.

Officers and employees of the Authority.

(2) The salary and allowances payable to and the other conditions of service of the officers and other employees of the Authority appointed under sub-section (1) shall be such as may be specified by regulations."

15. In section 48 of the Major Port Act, in sub-section (1),—

Amendment of section 48.

(a) for the opening portion, the following shall be substituted, namely:—

"The Authority shall from time to time, by notification in the Official Gazette, frame a scale of rates at which, and a statement of conditions under which, any of the services specified hereunder shall be performed by a Board or any other person authorised under section 42 at or in relation to the port or port approaches—";

(b) in clause (e), the words "excepting the services in respect of vessels for which fees are chargeable under the Indian Ports Act" shall be omitted.

16. In section 49 of the Major Port Act, in sub-section (1), for the opening portion, the following shall be substituted, namely:—

Amendment of section 49.

"The Authority shall from time to time, by notification in the Official Gazette, also frame a scale of rates on payment of which, and a statement of conditions under which, any property, belonging to, or in the possession or occupation of, the Board, or any place within the limits of the port or the port approaches may be used for the purposes specified hereunder:—".

17. After section 49 of the Major Port Act, the following sections shall be inserted, namely:—

Insertion of new sections 49A and 49B.

"49A. (1) Within any port, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as the Authority may fix.

Fees for pilotage and certain other services.

(2) The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by sub-section (1).

(3) The Central Government may, in special cases, remit the whole or any portion of the fees chargeable under sub-section (1) or sub-section (2).

49B. (1) The Authority shall from time to time, by notification in the Official Gazette, fix port-dues on vessels entering the port.

Fixation of port-dues.

(2) An order increasing or altering the fees for pilotage and certain other services or port-dues at every port shall not take effect until the expiration of thirty days from the day on which the order was published in the Official Gazette."

18. For section 50 of the Major Port Act, the following sections shall be substituted, namely:—

Substitution of section 50 and insertion of new sections 50A, 50B and 50C.

Consolidated rates for combination of services.

"50. The Authority may, from time to time, by notification in the Official Gazette, frame a consolidated scale of rates for any combination of service specified in section 48 or for any combination of such service or services with any user or permission to use any property belonging to or in the possession or occupation of the Board, as specified in section 49 or the fees to be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels as specified in section 49A or the port-dues to be fixed on vessels entering the port and for the duration of such dues as specified in section 49B.

Port-due on vessels in ballast.

50A. A vessel entering any port in ballast and not carrying passengers shall be charged with a port-due at a rate to be determined by the Authority and not exceeding three-fourths of the rate with which she would otherwise be chargeable.

Port-due on vessels not discharging or taking in cargo.

50B. When a vessel enters a port but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), she shall be charged with a port-due at a rate to be determined by the Authority and not exceeding half the rate with which she would otherwise be chargeable.

Publication of orders of Authority.

50C. Every notification, declaration, order and regulation of the Authority made in pursuance of this Act shall be published in the Official Gazette and a copy thereof shall be kept in the office of the conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates, and shall there be open at all reasonable times to the inspection of any person without payment of any fee."

Amendment of section 51.

19. In section 51 of the Major Port Act, for the word "Board" in both the places where it occurs, the word "Authority" shall be substituted.

Omission of section 52.

20. Section 52 of the Major Port Act shall be omitted.

Amendment of section 54.

21. In section 54 of the Major Port Act,—

(a) in sub-section (1), for the words "direct any Board", the words "direct the Authority" shall be substituted;

(b) in sub-section (2),—

(i) for the words, brackets and figure "If any Board against whom a direction is made under sub-section (1) fails or neglects to comply with such direction", the words, brackets and figure "If the Authority fails or neglects to comply with the direction under sub-section (1)" shall be substituted;

(ii) in the proviso, for the words "the Board", the words "the Authority" shall be substituted.

Amendment of section 57.

22. In section 57 of the Major Port Act, for the words "A Board shall not lease", the words "The Authority shall not lease" shall be substituted.

Amendment of section 59.

23. In section 59 of the Major Port Act, in sub-section (1) for the words "leviable by a Board under this Act", the words "leviable under this Act" shall be substituted.

Insertion of new section 110A.

24. After section 110 of the Major Port Act, the following section shall be inserted, namely:—

Power of Central Government to supersede the Authority.

"110A. (1) If the Central Government is of the opinion that the Authority is unable to perform, or has persistently made default in the performance of, the duty imposed on it by or under this Act or has exceeded or abused its powers, or has wilfully or without sufficient cause, failed to comply with any direction issued by the Central Government under section 111, the Central Government may, by notification in the Official Gazette, supersede the Authority for such period as may be specified in the notification:

Provided that, before issuing a notification under this sub-section, the Central Government shall give reasonable opportunity to the Authority to show cause why it should not be superseded and shall consider the explanation and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) the Chairperson and the Members of the Authority shall, notwithstanding that their term of office has not expired as from the date of supersession, vacate their offices as such Chairperson or Members as the case may be;

(b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Authority shall, during the period of supersession, be exercised and performed by such person or persons as the Central Government may direct.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may—

(a) extend the period of supersession for such further period as it may consider necessary; or

(b) reconstitute the Authority in the manner provided in section 47A".

25. In section 111 of the Major Port Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment
of section
111.

"(1) Without prejudice to the foregoing provisions of this Chapter, the Authority and every Board shall, in the discharge of its functions under this Act be bound by such directions on questions of policy as the Central Government may give in writing from time to time:

Provided that the Authority or the Board, as the case may be, shall be given opportunity to express its views before any direction is given under this sub-section."

26. For section 112 of the Major Port Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 112

"112: Every person employed by the Authority or by a Board under this Act shall, for the purposes of sections 166 to 171 (both inclusive), 184, 185 and 409 of the Indian Penal Code and for the purposes of the Prevention of Corruption Act, 1988 be deemed to be a public servant within the meaning of section 21 of the said Code."

Every person
employed
by the
authority of
this Act to
be a public
servant.

27. In section 121 of the Major Port Act, for the words "against a Board or any member", the words "against the Authority a Board or any member" shall be substituted.

Amendment
of section
121.

28. In section 122 of the Major Port Act, in sub-section (1), after clause (b), the following clause shall be inserted, namely:—

Amendment
of section
122.

"(ba) the salaries, allowances payable to and the other terms and conditions of the Chairperson and members of the Authority;"

29. After section 123 of the Major Port Act, the following section shall be inserted, namely:—

Insertion of
new section
123A.

Power of
Authority
to make
regulations.

"123A. The Authority may make regulations consistent with this Act for all or any of the following purposes, namely:—

(a) the times and places of meetings of the Authority and the procedure to be followed at such meetings under section 47E;

(b) the salaries and allowances payable to and the other conditions of service of officers and other employees of the Authority under sub-section (2) of section 47H".

Amendment
of section
132.

30. In section 132 of the Major Port Act,—

(a) in sub-section (1),—

(i) in the opening portion, for the words "made by a Board or by the Central Government", the words "made by a Board or the Authority or the Central Government" shall be substituted;

(ii) in clause (b), for the words "made by the Central Government", the words "made by the Authority or the Central Government" shall be substituted;

(b) in sub-section (2), for the words "made by the Central Government", the words "made by the Authority or the Central Government" shall be substituted.

CHAPTER IV

MISCELLANEOUS

Repeal and
saving.

31. (1) The Port Laws (Amendment) Ordinance, 1997 is hereby repealed.

Ord. 1 of 1997.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Ports Act, 1908 and the Major Port Trusts Act, 1963 as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

15 of 1908.

38 of 1963.

Sd/—

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, 10th August, 1998.

No. RP/34/97/Act 16/96/E : The following Act of Parliament is republished
for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)
New Delhi, the 31st July, 1996/Shravan 9, 1918 (Saka)

The following Act of Parliament received the assent of the President on the
31st July, 1996 and is hereby published for general information :

**THE PREVENTION OF ILLICIT TRAFFIC IN NARCOTIC DRUGS
AND PSYCHOTROPIC SUBSTANCES (AMENDMENT) ACT, 1996**

(Act. No. 16 of 1996)

(31st July, 1996)

AN ACT

*further to amend the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic
Substances Act, 1988.*

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as
follows:—

1. This Act may be called the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1996. Short title.

Amendment
of section 10
of Act 46 of
1988.

2. In the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, in section 10, in sub-section (1), for the figures, letters and words "31st day of July, 1996", the figures, letters and words "31st day of July, 1999" shall be substituted.

Sd/-

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette
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Separate paging is given to this Part in order that it
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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 10th August, 1998.

No. RP/46/97/Act 21/96/E : The following Act of Parliament is republished
 for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 1st August, 1996/Shravan 10, 1918 (Saka)

The following Act of Parliament received the assent of the President on the
 1st August, 1996 and is hereby published for general information :

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ACT, 1996

(Act No. 21 of 1996)

(1st August, 1996)

AN ACT

*further to amend the Representation of the People Act, 1950 and the
 Representation of the People Act, 1950*

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as
 follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Representation of the People (Amendment) Act,
 1996.

Short title
 and com-
 mencement.

(2) It shall come into force on such date as the Central Government may, by
 notification in the Official Gazette, appoint.

(f) in the case of bye-elections to the Legislative Assembly of a State from two or more Assembly constituencies which are held simultaneously, from more than two such Assembly constituencies;

(g) in the case of bye-elections to the Council of States for filling two or more seats allotted to a State, which are held simultaneously, for filling more than two such seats;

(h) in the case of bye-elections to the Legislative Council of a State having such Council from two or more Council constituencies which are held simultaneously, from more than two such Council constituencies.

Explanation.—For the purposes of this sub-section, two or more bye-elections shall be deemed to be held simultaneously where the notification calling such bye-elections are issued by the Election Commission under section 147, 149, 150 or, as the case may be, 151 on the same date."

Amendment
of section
34.

7. In section 34 of the 1951-Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) A candidate shall not be deemed to be duly nominated for election from a constituency unless he deposits or causes to be deposited,—

(a) in the case of an election from a Parliamentary constituency, a sum of ten thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five thousand rupees; and

(b) in the case of an election from an Assembly or Council constituency, a sum of five thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two thousand five hundred rupees:

Provided that where a candidate has been nominated by more than one nomination paper for election in the same constituency, not more than one deposit shall be required of him under this sub-section."

Amendment
of section
38.

8. In section 38 of the 1951-Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) For the purpose of listing the names under sub-section (1), the candidates shall be classified as follows, namely:—

(i) candidates of recognised political parties;

(ii) candidates of registered political parties other than those mentioned in clause (i);

(iii) other candidates.

(3) The categories mentioned in sub-section (2) shall be arranged in the order specified therein and the names of candidates in each category shall be arranged in alphabetical order and the addresses of the contesting candidates as given in the nomination papers together with such other particulars as may be prescribed."

9. For section 52 of the 1951-Act, the following section shall be substituted, namely:—

Substitution of new section for section 52.

52. (1) If a candidate set up by a recognised political party,—

Death of a candidate of a recognised political party before poll.

(a) dies at any time after 11.00 A.M. on the last date for making nominations and his nomination is found valid on scrutiny under section 36; or

(b) whose nomination has been found valid on scrutiny under section 36 and who has not withdrawn his candidature under section 37, dies,

and in either case, a report of his death is received at any time before the publication of the list of contesting candidates under section 38; or

(c) dies as a contesting candidate and a report of his death is received before the commencement of the poll,

the returning officer shall, upon being satisfied about the fact of the death of the candidate, by order, announce an adjournment of the poll to a date to be notified later and report the fact to the Election Commission and also to the appropriate authority:

Provided that no order for adjourning a poll should be made in a case referred to in clause (a) except after the scrutiny of all the nominations including the nomination of the deceased candidate.

(2) The Election Commission shall, on the receipt of a report from the returning officer under sub-section (1), call upon the recognised political party, whose candidate has died, to nominate another candidate for the said poll within seven days of issue of such notice to such recognised political party and the provisions of sections 30 to 37 shall, so far as may be, apply in relation to such nomination as they would apply to other nominations:

Provided that no person who has given a notice of withdrawal of his candidature under sub-section (1) of section 37 before the adjournment of the poll shall be ineligible for being nominated as a candidate for the election after such adjournment.

(3) Where a list of contesting candidates had been published under section 38 before the adjournment of the poll under sub-section (1), the returning officer shall again prepare and publish a fresh list of contesting candidates under that section so as to include the name of the candidate who has been validly nominated under sub-section (2).

Explanation.—For the purposes of this section, sections 33 and 38, "recognised political party" means a political party recognised by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968.

10. For section 126 of the 1951-Act, the following section shall be substituted, namely:—

Substitution of new section for section 126.

Prohibition
of public
meetings
during
period of
forty-eight
hours
ending
with hour
fixed for
conclusion
of poll.

126. (1) No person shall—

(a) convene, hold, attend, join or address any public meeting or procession in connection with an election; or

(b) display to the public any election matter by means of cinematograph, television or other similar apparatus; or

(c) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto,

in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years or with fine, or with both.

(3) In this section, the expression "election matter" means any matter intended or calculated to influence or affect the result of an election.

Amendment
of section
127.

11. In section 127 of the 1951-Act,—

(a) in sub-section (1), for the words "three months or with fine which may extend to one thousand rupees", the words "six months or with fine which may extend to two thousand rupees" shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) An offence punishable under sub-section (1) shall be cognizable."

Substitution
of new
section for
section 133.

12. For section 133 of the 1951-Act, the following section shall be substituted, namely:—

Penalty for
illegal
hiring or
procuring of
conveyance
at elections.

"133. If any person is guilty of any such corrupt practice as is specified in clause (5) of section 123 at or in connection with an election, he shall be punishable with imprisonment which may extend to three months and with fine."

Insertion of
new section
134B.

13. After section 134A of the 1951-Act, the following section shall be inserted, namely:—

Prohibition
of going
armed to or
near a
polling
station.

"134B. (1) No person, other than the returning officer, the presiding officer, any police officer and any other person appointed to maintain peace and order at a polling station who is on duty at the polling station, shall, on a polling day, go armed with arms, as defined in the Arms Act, 1959, of any kind within the neighbourhood of a polling station. 54 of 1959.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to two years or with fine, or with both.

54 of 1959.

(3) Notwithstanding anything contained in the Arms Act, 1959, where a person is convicted of an offence under this section, the arms as defined in the said Act found in his possession shall be liable to confiscation and the licence granted in relation to such arms shall be deemed to have been revoked under section 17 of that Act.

(4) An offence punishable under sub-section (2) shall be cognizable."

14. In section 135 of the 1951-Act, in sub-section (1), for the word "fraudulently", the word "unauthorisedly" shall be substituted.

Amendment
of section
135.

15. Section 135A of the 1951-Act shall be renumbered as sub-section (1) thereof and,—

Amendment
of section
135A.

(i) in sub-section (1) as so renumbered,—

(a) for the portion beginning with the words "shall not be less than six months" and ending with the words "extend to three years and with fine", the following shall be substituted, namely:—

"shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine."

(b) in the *Explanation*,—

(A) for the words "this section", occurring in the opening portion, the words, figures and letters "this sub-section and section 20B" shall be substituted;

(B) in clause (b), for the words "prevent others from voting", the words "prevent others from free exercise of their right to vote" shall be substituted;

(C) in clause (c), for the word "threatening", the words "coercing or intimidating or threatening directly or indirectly," shall be substituted;

(ii) after sub-section (1) as so renumbered and the *Explanation* thereto, the following sub-section shall be inserted, namely:—

"(2) An offence punishable under sub-section (1) shall be cognizable."

16. After section 135A of the 1951-Act, the following sections shall be inserted, namely:—

Insertion of
new sec-
tions 135B
and 135C.

"135B. (1) Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at an election to the House of the People or the Legislative Assembly of a State shall, on the day of poll, be granted a holiday.

Grant of
paid holiday
to emplo-
yees on the
day of poll.

(2) No deduction or abatement of the wages of any such person shall be made on account of a holiday having been granted in accordance with sub-section (1) and if such person is employed on the basis that he would not ordinarily receive wages for such a day, he shall nonetheless be paid for such day the wages he would have drawn had not a holiday been granted to him on that day.

(3) If an employer contravenes the provisions of sub-section (1) or sub-section (2), then such employer shall be punishable with fine which may extend to five hundred rupees.

(4) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

Liquor not to be sold, given or distributed on polling day.

135C. (1) No spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, eating house, tavern, shop or any other place, public or private, within a polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

(2) Any person who contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.

(3) Where a person is convicted of an offence under this section, the spirituous, fermented or intoxicating liquors or other substances of a like nature found in his possession shall be liable to confiscation and the same shall be disposed of in such manner as may be prescribed."

Insertion of new section 151A.

17. After section 151 of the 1951-Act, the following section shall be inserted, namely:—

Time limit for filling vacancies referred to in sections 147, 149, 150 and 151.

"151A. Notwithstanding anything contained in section 147, section 149, section 150 and section 151, a bye-election for filling any vacancy referred to in — of the said sections shall be held within a period of six months from the date of the occurrence of the vacancy:

Provided that nothing contained in this section shall apply if—

(a) the remainder of the term of a member in relation to a vacancy is less than one year; or

(b) the Election Commission in consultation with the Central Government certifies that it is difficult to hold the bye-election within the said period."

Sd/-

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.

Extra No. 18



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 10th August, 1998.

No. RP/35/97/Act 20/96/E : The following Act of Parliament is republished
 for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 31st July, 1996/Shravan 9, 1918 (Saka)

The following Act of Parliament received the assent of the President on the
 31st July, 1996 and is hereby published for general information :

THE SUPREME COURT AND HIGH COURT JUDGES (CONDITIONS
OF SERVICE) AMENDMENT ACT, 1996
(Act No. 20 of 1996) (31st July, 1996)

AN ACT

*further to amend the Supreme Court Judges (Conditions of Service) Act, 1958 and the
 High Court Judges (Conditions of Service) Act, 1954.*

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as
 follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Supreme Court and High Court Judges (Conditions
 of Service) Amendment Act, 1996.

Short title and
 commencement.

(2) It shall be deemed to have come into force on the 11th day of January, 1996.

CHAPTER II

AMENDMENT OF THE SUPREME COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1958

41 of 1958.

2. In section 23A of the Supreme Court Judges (Conditions of Service) Act, 1958 (hereinafter
 referred to as the Supreme Court Judges Act), for the words "one hundred and fifty litres of petrol
 every month or the actual consumption of petrol", the words "two hundred litres of fuel every month
 or the actual consumption of fuel" shall be substituted.

Amendment of
 section 23A.

Amendment of
section 23B.

3. In section 23B of the Supreme Court Judges Act, for the words "one thousand two hundred and fifty" and "seven hundred and fifty", the words "four thousand" and "three thousand" shall respectively be substituted.

CHAPTER III

AMENDMENT OF THE HIGH COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1954

Amendment of
section 22B.

4. In section 22B of the High Court Judges (Conditions of Service) Act, 1954 (hereinafter referred to as the High Court Judges Act), for the words "one hundred and fifty litres of petrol every month or the actual consumption of petrol", the words "two hundred litres of fuel every month or the actual consumption of fuel" shall be substituted.

28 of 1954.

Amendment of
section 22C.

5. In section 22C of the High Court Judges Act, for the words "five hundred" and "three hundred", the words "three thousand" and "two thousand" shall respectively be substituted.

Repeal and saving.

6. (1) The Supreme Court and High Court Judges (Conditions of Service) Amendment Third Ordinance, 1996, is hereby repealed.

Ord. 29 of 1996.

(2) Notwithstanding such repeal, anything done or any action taken under the Supreme Court Judges Act and the High Court Judges Act, as amended by the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of the respective Act aforesaid as amended by this Act.

Sd/-

K. L. MOHANPURIA,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,

Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 10th August, 1998.

No. RP/40/97/Act 22/96/E : The following Act of Parliament is republished for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 12th August, 1996/Shravan 21, 1918 (Saka)

The following Act of Parliament received the assent of the President on the 10th August, 1996 and is hereby published for general information :

THE DEPOSITORIES ACT, 1996

(Act No. 22 of 1996)

(10th August, 1996)

AN ACT

to provide for regulation of depositories in securities and for matters connected therewith or incidental thereto:

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Depositories Act, 1996.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 20th day of September, 1995.

2. (1) In this Act, unless the context otherwise requires,—

(a) "beneficial owner" means a person whose name is recorded as such with a depository;

(b) "Board" means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992;

(c) "bye-laws" means bye-laws made by a depository under section 26;

(d) "Company Law Board" means the Board of Company Law Administration constituted under section 10E of the Companies Act, 1956;

(e) "depository" means a company formed and registered under the Companies Act, 1956 and which has been granted a certificate of registration under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992;

Short title,
extent and
commence-
ment.

Definitions.

15 of 1992.

of 1956.

1 of 1956.

15 of 1992.

(f) "issuer" means any person making an issue of securities;

(g) "participant" means a person registered as such under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992;

15 of 1992.

(h) "prescribed" means prescribed by rules made under this Act;

(i) "record" includes the records maintained in the form of books or stored in a computer or in such other form as may be determined by regulations;

(j) "registered owner" means a depository whose name is entered as such in the register of the issuer;

(k) "regulations" means the regulations made by the Board;

(l) "security" means such security as may be specified by the Board;

(m) "service" means any service connected with recording of allotment of securities or transfer of ownership of securities in the record of a depository.

(2) Words and expressions used herein and not defined but defined in the Companies Act, 1956 or the Securities Contracts (Regulation) Act, 1956 or the Securities and Exchange Board of India Act, 1992, shall have the meanings respectively assigned to them in those Acts.

1 of 1956.

42 of 1956.

15 of 1992.

CHAPTER II

CERTIFICATE OF COMMENCEMENT OF BUSINESS

Certificate of commencement of business by depositories.

3. (1) No depository shall act as a depository unless it obtains a certificate of commencement of business from the Board.

(2) A certificate granted under sub-section (1) shall be in such form as may be specified by the regulations.

(3) The Board shall not grant a certificate under sub-section (1) unless it is satisfied that the depository has adequate systems and safeguards to prevent manipulation of records and transactions:

Provided that no certificate shall be refused under this section unless the depository concerned has been given a reasonable opportunity of being heard.

CHAPTER III

RIGHTS AND OBLIGATIONS OF DEPOSITORIES, PARTICIPANTS, ISSUERS AND BENEFICIAL OWNERS

Agreement between depository and participant.

4. (1) A depository shall enter into an agreement with one or more participants as its agent.

(2) Every agreement under sub-section (1) shall be in such form as may be specified by the bye-laws.

Services of depository.

5. Any person, through a participant, may enter into an agreement, in such form as may be specified by the bye-laws, with any depository for availing its services.

Surrender of certificate of security.

6. (1) Any person who has entered into an agreement under section 5 shall surrender the certificate of security, for which he seeks to avail the services of a depository, to the issuer in such manner as may be specified by the regulations.

(2) The issuer, on receipt of certificate of security under sub-section (1), shall cancel the certificate of security and substitute in its records the name of the depository as a registered owner in respect of that security and inform the depository accordingly.

(3) A depository shall, on receipt of information under sub-section (2), enter the name of the person referred to in sub-section (1) in its records, as the beneficial owner.

Registration of transfer of securities with depository.

7. (1) Every depository shall, on receipt of intimation from a participant, register the transfer of security in the name of the transferee.

(2) If a beneficial owner or a transferee of any security seeks to have custody of such security, the depository shall inform the issuer accordingly.

8. (1) Every person subscribing to securities offered by an issuer shall have the option either to receive the security certificates or hold securities with a depository.

Options to receive security certificate or hold securities with depository.

(2) Where a person opts to hold a security with a depository, the issuer shall intimate such depository the details of allotment of the security, and on receipt of such information the depository shall enter in its records the name of the allottee as the beneficial owner of that security.

9. (1) All securities held by a depository shall be dematerialised and shall be in a fungible form.

Securities in depositories to be in fungible form.

(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 shall apply to the securities held by a depository on behalf of the beneficial owners.

1 of 1956.

10. (1) Notwithstanding anything contained in any other law for the time being in force, a depository shall be deemed to be the registered owner for the purposes of effecting transfer of ownership of security on behalf of a beneficial owner.

Rights of depositories and beneficial owner.

(2) Save as otherwise provided in sub-section (1), the depository as a registered owner shall not have any voting rights or any other rights in respect of securities held by it.

(3) The beneficial owner shall be entitled to all the rights and benefits and be subjected to all the liabilities in respect of his securities held by a depository.

11. Every depository shall maintain a register and an index of beneficial owners in the manner provided in sections 150, 151 and 152 of the Companies Act, 1956.

Register of beneficial owner.

12. (1) Subject to such regulations and bye-laws, as may be made in this behalf, a beneficial owner may with the previous approval of the depository create a pledge or hypothecation in respect of a security owned by him through a depository.

Pledge or hypothecation of securities held in a depository.

(2) Every beneficial owner shall give intimation of such pledge or hypothecation to the depository and such depository shall thereupon make entries in its records accordingly.

(3) Any entry in the records of a depository under sub-section (2) shall be evidence of a pledge or hypothecation.

13. (1) Every depository shall furnish to the issuer information about the transfer of securities in the name of beneficial owners at such intervals and in such manner as may be specified by the bye-laws.

Furnishing of information and records by depository and issuer.

(2) Every issuer shall make available to the depository copies of the relevant records in respect of securities held by such depository.

14. (1) If a beneficial owner seeks to opt out of a depository in respect of any security he shall inform the depository accordingly.

Option to opt out in respect of any security.

(2) The depository shall on receipt of intimation under sub-section (1) make appropriate entries in its records and shall inform the issuer.

(3) Every issuer shall, within thirty days of the receipt of intimation from the depository and on fulfilment of such conditions and on payment of such fees as may be specified by the regulations, issue the certificate of securities to the beneficial owner or the transferee, as the case may be.

15. The Bankers' Books Evidence Act, 1891 shall apply in relation to a depository as if it were a bank as defined in section 2 of that Act.

Act 18 of 1891 to apply to depositories. Depositories to indemnify loss in certain cases.

16. (1) Without prejudice to the provisions of any other law for the time being in force, any loss caused to the beneficial owner due to the negligence of the depository or the participant, the depository shall indemnify such beneficial owner.

(2) Where the loss due to the negligence of the participant under sub-section (1) is indemnified by the depository, the depository shall have the right to recover the same from such participant.

1 of 1956.

Rights and obligations of depositories, etc.

17. (1) Subject to the provisions of this Act, the rights and obligations of the depositories, participants and the issuers whose securities are dealt with by a depository shall be specified by the regulations.

(2) The eligibility criteria for admission of securities into the depository shall be specified by the regulations.

CHAPTER IV

ENQUIRY AND INSPECTION

Power of Board to call for information and enquiry.

18. (1) The Board, on being satisfied that it is necessary in the public interest or in the interest of investors so to do, may, by order in writing,—

(a) call upon any issuer, depository, participant or beneficial owner to furnish in writing such information relating to the securities held in a depository as it may require; or

(b) authorise any person to make an enquiry or inspection in relation to the affairs of the issuer, beneficial owner, depository or participant, who shall submit a report of such enquiry or inspection to it within such period as may be specified in the order.

(2) Every director, manager, partner, secretary, officer or employee of the depository or issuer or the participant or beneficial owner shall on demand produce before the person making the enquiry or inspection all information or such records and other documents in his custody having a bearing on the subject matter of such enquiry or inspection.

Power of Board to give directions in certain cases.

19. Save as provided in this Act, if after making or causing to be made an enquiry or inspection, the Board is satisfied that it is necessary—

(i) in the interest of investors, or orderly development of securities market; or

(ii) to prevent the affairs of any depository or participant being conducted in the manner detrimental to the interests of investors or securities market,

it may issue such directions—

(a) to any depository or participant or any person associated with the securities market; or

(b) to any issuer,

as may be appropriate in the interest of investors or the securities market.

CHAPTER V

PENALTY

Offences.

20. Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or any regulations or bye-laws made thereunder shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

Offences by companies.

21. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER VI

MISCELLANEOUS

22. (1) No court shall take cognizance of any offence punishable under this Act or any regulations or bye-laws made thereunder, save on a complaint made by the Board.

Cognizance of offences by courts.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

23. (1) Any person aggrieved by an order of the Board made under this Act, or the regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

Appeals.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power of Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the time within which an appeal may be preferred under sub-section (1) of section 23;

(b) the form in which an appeal may be preferred under sub-section (3) of section 23 and the fees payable in respect of such appeal;

(c) the procedure for disposing of an appeal under sub-section (4) of section 23.

25. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992, the Board may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

Power of Board to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the form in which record is to be maintained under clause (i) of sub-section (1) of section 2;

(b) the form in which the certificate of commencement of business shall be issued under sub-section (2) of section 3;

(c) the manner in which the certificate of security shall be surrendered under sub-section (1) of section 6;

(d) the manner of creating a pledge or hypothecation in respect of security owned by a beneficial owner under sub-section (1) of section 12;

(e) the conditions and the fees payable with respect to the issue of certificate of securities under sub-section (3) of section 14;

(f) the rights and obligations of the depositories, participants and the issuers under sub-section (1) of section 17;

(g) the eligibility criteria for admission of securities into the depository under sub-section (2) of section 17.

Power of
depositories to
make bye-laws.

26. (1) A depository shall, with the previous approval of the Board, make bye-laws consistent with the provisions of this Act and the regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws shall provide for—

(a) the eligibility criteria for admission and removal of securities in the depository;

(b) the conditions subject to which the securities shall be dealt with;

(c) the eligibility criteria for admission of any person as a participant;

(d) the manner and procedure for dematerialisation of securities;

(e) the procedure for transactions within the depository;

(f) the manner in which securities shall be dealt with or withdrawn from a depository;

(g) the procedure for ensuring safeguards to protect the interests of participants and beneficial owners;

(h) the conditions of admission into and withdrawal from a participant by a beneficial owner;

(i) the procedure for conveying information to the participants and beneficial owners on dividend declaration, shareholder meetings and other matters of interest to the beneficial owners;

(j) the manner of distribution of dividends, interest and monetary benefits received from the company among beneficial owners;

(k) the manner of creating pledge or hypothecation in respect of securities held with a depository;

(l) *inter se* rights and obligations among the depository, issuer, participants and beneficial owners;

(m) the manner and the periodicity of furnishing information to the Board, issuer and other persons;

(n) the procedure for resolving disputes involving depository, issuer, company or a beneficial owner;

(o) the procedure for proceeding against the participant committing breach of the regulations and provisions for suspension and expulsion of participants from the depository and cancellation of agreements entered with the depository;

(p) the internal control standards including procedure for auditing, reviewing and monitoring.

(3) Where the Board considers it expedient so to do, it may, by order in writing, direct a depository to make any bye-laws or to amend or revoke any bye-laws already made within such period as it may specify in this behalf.

(4) If the depository fails or neglects to comply with such order within the specified period, the Board may make the bye-laws or amend or revoke the bye-laws made either in the form specified in the order or with such modifications thereof as the Board thinks fit.

Rules and
regulations to be
laid before
Parliament.

27. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or

regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

28. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force relating to the holding and transfer of securities.

Application of
other laws not
barred.

29. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Removal of
difficulties.

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

30. The enactments specified in the Schedule to this Act shall be amended in the manner provided therein.

Amendments to
certain
enactments.

Ord. 28 of
1996.

31. (1) The Depositories (Third) Ordinance, 1996 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

Repeal and
saving.

THE SCHEDULE

(See section 30)

AMENDMENTS TO CERTAIN ENACTMENTS

PART I

AMENDMENT TO THE INDIAN STAMP ACT, 1899

(2 OF 1899)

AMENDMENT

After section 8, the following section shall be inserted, namely:—

'8A. Notwithstanding anything contained in this Act,—

(a) an issuer, by the issue of securities to one or more depositories shall, in respect of such issue, be chargeable with duty on the total amount of security issued by it and such securities need not be stamped;

(b) where an issuer issues certificate of security under sub-section (3) of section 14 of the Depositories Act, 1996, on such certificate duty shall be payable as is payable on the issue of duplicate certificate under this Act;

(c) transfer of registered ownership of shares from a person to a depository or from a depository to a beneficial owner shall not be liable to any stamp duty;

(d) transfer of beneficial ownership of shares, such shares being shares of a company dealt with by a depository shall not be liable to duty under article 62 of Schedule I of this Act.

Explanation.—For the purposes of this section, the expressions "beneficial owner", "depository" and "issuer", shall have the meanings respectively assigned to them in clauses (a), (e) and (f) of sub-section (1) of section 2 of the Depositories Act, 1996.

Securities not
liable to stamp
duty.

PART II

AMENDMENTS TO THE COMPANIES ACT, 1956

(1 OF 1956)

AMENDMENTS

1. In section 2, after clause (45A), the following clause shall be inserted, namely:—

'(45B) "Securities and Exchange Board of India" means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992.'

Interpretation of
certain words
and expressions.

2. After section 2, the following section shall be inserted, namely:—

"2A. Words and expressions used and not defined in this Act but defined in the Depositories Act, 1996 shall have the same meanings respectively assigned to them in that Act."

3. In section 41, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Every person holding equity share capital of company and whose name is entered as beneficial owner in the records of the depository shall be deemed to be a member of the concerned company."

4. In section 49, in sub-section (5), after clause (b), the following clause shall be inserted, namely:—

"(c) from holding investments in the name of a depository when such investment are in the form of securities held by the company as a beneficial owner."

5. In section 51, the following proviso shall be inserted, namely:—

"Provided that where the securities are held in a depository, the records of the beneficial ownership may be served by such depository on the company by means of electronic mode or by delivery of floppies or discs."

6. Section 83 shall be omitted.

7. In section 108, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Nothing contained in this section shall apply to transfer of security effected by the transferor and the transferee both of whom are entered as beneficial owners in the records of a depository."

8. In section 111, after sub-section (13), the following sub-section shall be inserted, namely:—

"(14) In this section "company" means a private company and includes a private company which had become a public company by virtue of section 43A of this Act."

9. After section 111, the following section shall be inserted, namely:—

"111A. (1) In this section, unless the context otherwise requires, "company" means a company other than a company referred to in sub-section (14) of section 111 of this Act.

(2) Subject to the provisions of this section, the shares or debentures and any interest therein of a company shall be freely transferable.

(3) The Company Law Board may, on an application made by a depository, company, participant or investor or the Securities and Exchange Board of India within two months from the date of transfer of any shares or debentures held by a depository or from the date on which the instrument of transfer or the intimation of transmission was delivered to the company, as the case may be, after such enquiry as it thinks fit, direct any company or depository to rectify register or records if the transfer of the shares or debentures is in contravention of any of the provisions of the Securities and Exchange Board of India Act, 1992 or regulations made thereunder or the Sick Industrial Companies (Special Provisions) Act, 1985.

(4) The Company Law Board while acting under sub-section (3), may at its discretion make such interim order as to suspend the voting rights before making or completing such enquiry.

(5) The provisions of this section shall not restrict the right of a holder of shares or debentures, to transfer such shares or debentures and any person acquiring

Rectification of
register on
transfer.

such shares or debentures shall be entitled to voting rights unless the voting rights have been suspended by an order of the Company Law Board.

(6) Notwithstanding anything contained in this section, any further transfer, during the pendency of the application with the Company Law Board, of shares or debentures shall entitle the transferee to voting rights unless the voting rights in respect of such transferee have also been suspended.

(7) The provisions of sub-sections (5), (7), (9), (10) and (12) of section 111 shall, so far as may be, apply to the proceedings before the Company Law Board under this section as they apply to the proceedings under that section.

10. In section 113, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Notwithstanding anything contained in sub-section (1), where the securities are dealt with in a depository, the company shall intimate the details of allotment of securities to depository immediately on allotment of such securities.”

11. In section 150, in sub-section (1), in clause (b), the words “distinguishing each share by its number” shall be omitted.

12. In section 152, in sub-section (1), in clause (b), the words “distinguishing each debenture by its number” shall be omitted.

13. After section 152, the following section shall be inserted, namely:—

“152A. The register and index of beneficial owners maintained by a depository under section 11 of the Depositories Act, 1996, shall be deemed to be an index of members and register and index of debenture holders, as the case may be, for the purposes of this Act.”

Register and
index of
beneficial
owners.

14. In Schedule II, in Part II, in clause C, after sub-clause (9), the following sub-clause shall be inserted, namely:—

“9A. The details of opinion to subscribe for securities to be dealt with in a depository.”

PART III

AMENDMENTS TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

(42 OF 1956)

AMENDMENTS

1. In section 2, for clause (i), the following clause shall be substituted, namely:—

“(i) “spot delivery contract” means a contract which provides for—

(a) actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual periods taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;

(b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository;”

2. Section 22A shall be omitted.

PART IV

AMENDMENT TO THE INCOME-TAX ACT, 1961

(43 OF 1961)

AMENDMENT

In section 45, after sub-section (2), the following sub-section shall be inserted, namely:—

(2A) Where any person has had at any time during previous year any beneficial interest in any securities, then, any profits or gains arising from transfer made by the depository or participant of such beneficial interest in respect of securities shall be chargeable to income-tax as the income of the beneficial owner of the previous year in which such transfer took place and shall not be regarded as income of the depository who is deemed to be the registered owner of securities by virtue of sub-section (1) of section 10 of the Depositories Act, 1996, and for the purposes of—

(i) section 48; and

(ii) proviso to clause (424) of section 2,

the cost of acquisition and the period of holding of any securities shall be determined on the basis of the first-in-first-out method.

Explanation.—For the purposes of this sub-section, the expressions "beneficial owner", "depository" and "security" shall have the meanings respectively assigned to them in clauses (a), (e) and (1) of sub-section (1) of section 2 of the Depositories Act, 1996.

PART V

AMENDMENT TO THE BENAMI TRANSACTIONS (PROHIBITION) ACT, 1988

(45 OF 1988)

AMENDMENT

In section 3, for sub-section (2), the following sub-section shall be substituted, namely:—

(2) Nothing in sub-section (1) shall apply to—

(a) the purchase of property by any person in the name of his wife or unmarried daughter and it shall be presumed, unless the contrary is proved, that the said property had been purchased for the benefit of the wife or the unmarried daughter;

(b) the securities held by a—

(i) depository as a registered owner under sub-section (1) of section 10 of the Depositories Act, 1996;

(ii) participant as an agent of a depository.

Explanation.—The expressions "depository" and "participant" shall have the meanings respectively assigned to them in clauses (e) and (g) of sub-section (1) of section 2 of the Depositories Act, 1996.

PART VI

AMENDMENTS TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

(15 OF 1992)

AMENDMENTS

1. In section 2, in sub-section (2), for the words, brackets and figures "the Securities Contracts (Regulation) Act, 1956", the words, brackets and figures "the Securities Contracts (Regulation) Act, 1956 or the Depositories Act, 1996" shall be substituted.

2. In section 11, in sub-section (2), in clause (ba), for the words "depositories, custodians", the words "depositories, participants, custodians" shall be substituted.

3. In section 12, in sub-section (1A), for the words "depository, custodian", at both the places where they occur, the words "depository, participant, custodian" shall be substituted.

4. In section 16, in sub-section (1), for the words "this Act", the words and figures "this Act or the Depositories Act, 1996" shall be substituted.

Sd/-

K. L. MOHANPURIA,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,

Secretary to Government.



The Gujarat Government Gazette
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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 10th August, 1998.

No. RP/38/97/Act 27/96/E : The following Act of Parliament is republished
 for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 20th August, 1996/Shravan 29, 1918 (Saka)

The following Act of Parliament received the assent of the President on the
 19th August, 1996 and is hereby published for general information :

THE BUILDING AND OTHER CONSTRUCTION WORKERS
(REGULATION OF EMPLOYMENT AND CONDITIONS
OF SERVICE) ACT, 1996

(Act No. 27 of 1996)

(19th August, 1996)

AN ACT

*to regulate the employment and conditions of service of building and other construction
 workers and to provide for their safety, health and welfare measures and for other
 matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as
 follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Building and Other Construction Workers (Regu-
 lation of Employment and Conditions of Service) Act, 1996.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 1st day of March, 1996.

(4) It applies to every establishment which employs, or had employed on any day of
 the preceding twelve months, ten or more building workers in any building or other con-
 struction work.

Short title,
 extent,
 commencement
 and
 application.

Explanation.—For the purposes of this sub-section, the building workers employed in different relays in a day either by the employer or the contractor shall be taken into account in computing the number of building workers employed in the establishment.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means,—

(i) in relation to an establishment (which employs building workers either directly or through a contractor) in respect of which the appropriate Government under the Industrial Disputes Act, 1947, is the Central Government, the Central Government;

14 of 1947.

(ii) in relation to any such establishment, being a public sector undertaking, as the Central Government may by notification specify which employs building workers either directly or through a contractor, the Central Government;

Explanation.—For the purposes of sub-clause (ii), “public sector undertaking” means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 which is owned, controlled or managed by the Central Government;

1 of 1956.

(iii) in relation to any other establishment which employs building workers either directly or through a contractor, the Government of the State in which that other establishment is situate;

(b) “beneficiary” means a building worker registered under section 12;

(c) “Board” means a Building and Other Construction Workers’ Welfare Board constituted under sub-section (1) of section 18;

(d) “building or other construction work” means the construction, alteration, repairs, maintenance or demolition, of or, in relation to, buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the appropriate Government, by notification but does not include any building or other construction work to which the provisions of the Factories Act, 1948, or the Mines Act, 1952, apply;

63 of 1948.
35 of 1952.

(e) “building worker” means a person who is employed to do any skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, in connection with any building or other construction work but does not include any such person—

(i) who is employed mainly in a managerial or administrative capacity;

or

(ii) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature;

(f) “Chief Inspector” means the Chief Inspector of Inspection of Building and Construction appointed under sub-section (2) of section 42;

(g) "contractor" means a person who undertakes to produce a given result for any establishment, other than a mere supply of goods or articles of manufacture, by the employment of building workers or who supplies building workers for any work of the establishment; and includes a sub-contractor;

(h) "Director-General" means the Director-General of Inspection appointed under sub-section (1) of section 42;

(i) "employer", in relation to an establishment, means the owner thereof, and includes,—

(i) in relation to a building or other construction work carried on by or under the authority of any department of the Government, directly without any contractor, the authority specified in this behalf, or where no authority is specified, the head of the department;

(ii) in relation to a building or other construction work carried on by or on behalf of a local authority or other establishment, directly without any contractor, the chief executive officer of that authority or establishment;

(iii) in relation to a building or other construction work carried on by or through a contractor, or by the employment of building workers supplied by a contractor, the contractor;

(j) "establishment" means any establishment belonging to, or under the control of, Government, any body corporate or firm, an individual or association or other body of individuals which or who employs building workers in any building or other construction work; and includes an establishment belonging to a contractor, but does not include an individual who employs such workers in any building or construction work in relation to his own residence the total cost of such construction not being more than rupees ten lakhs;

(k) "Fund" means the Building and Other Construction Workers' Welfare Fund of a Board constituted under sub-section (1) of section 24;

(l) "notification" means a notification published in the Official Gazette;

(m) "prescribed" means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government;

(n) "wages" shall have the same meaning as assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936.

4 of 1936.

(2) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

CHAPTER II

THE ADVISORY COMMITTEES AND EXPERT COMMITTEES

3. (1) The Central Government shall, as soon as may be, constitute a Committee to be called the Central Building and Other Construction Workers' Advisory Committee (hereinafter referred to as the Central Advisory Committee) to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it.

Central
Advisory
Committee.

(2) The Central Advisory Committee shall consist of—

(a) a Chairperson to be appointed by the Central Government;

(b) three Members of Parliament of whom two shall be elected by the House of the People and one by the Council of States—members;

(c) the Director-General—member, *ex officio*;

(d) such number of other members, not exceeding thirteen but not less than nine, as the Central Government may nominate to represent the employers, building workers, associations of architects, engineers, accident insurance institutions and any other interests which, in the opinion of the Central Government, ought to be represented on the Central Advisory Committee.

(3) The number of persons to be appointed as members from each of the categories specified in clause (d) of sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Central Advisory Committee shall be such as may be prescribed:

Provided that the members nominated to represent the building workers shall not be less than the number of members nominated to represent the employers.

(4) It is hereby declared that the office of member of the Central Advisory Committee shall not disqualify its holder for being chosen as, or for being, a Member of either House of Parliament.

State Advisory
Committee.

4. (1) The State Government shall constitute a committee to be called the State Building and Other Construction Workers' Advisory Committee (hereinafter referred to as the State Advisory Committee) to advise the State Government on such matters arising out of the administration of this Act as may be referred to it.

(2) The State Advisory Committee shall consist of—

(a) a Chairperson to be appointed by the State Government;

(b) two members of the State Legislature to be elected from the State Legislature — members;

(c) a member to be nominated by the Central Government;

(d) the Chief Inspector—member, *ex officio*;

(e) such number of other members, not exceeding eleven, but not less than seven, as the State Government may nominate to represent the employers, building workers, associations of architects, engineers, accident insurance institutions and any other interests which, in the opinion of the State Government, ought to be represented on the State Advisory Committee.

(3) The number of persons to be appointed as members from each of the categories specified in clause (e) of sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of State Advisory Committee shall be such as may be prescribed:

Provided that the number of members nominated to represent the building workers shall not be less than the number of members nominated to represent the employers.

Expert
Committees.

5. (1) The appropriate Government may constitute one or more expert committees consisting of persons specially qualified in building or other construction work for advising that Government for making rules under this Act.

(2) The members of the expert committee shall be paid such fees and allowances for attending the meetings of the committee as may be prescribed:

Provided that no fee or allowances shall be payable to a member who is an officer of Government or of any body corporate established by or under any law for the time being in force.

CHAPTER III

REGISTRATION OF ESTABLISHMENTS

Appointment of
registering
officers.

6. The appropriate Government may, by order notified in the Official Gazette,—

(a) appoint such persons, being Gazetted Officers of Government, as it thinks fit, to be the registering officers for the purposes of this Act; and

(b) define the limits within which a registering officer shall exercise the powers conferred on him by or under this Act.

7. (1) Every employer shall,—

Registration of
establishments.

(a) in relation to an establishment to which this Act applies on its commencement, within a period of sixty days from such commencement; and

(b) in relation to any other establishment to which this Act may be applicable at any time after such commencement, within a period of sixty days from the date on which this Act becomes applicable to such establishment,

make an application to the registering officer for the registration of such establishment:

Provided that the registering officer may entertain any such application after the expiry of the periods aforesaid, if he is satisfied that the applicant was prevented by sufficient cause from making the application within such period.

(2) Every application under sub-section (1) shall be in such form and shall contain such particulars and shall be accompanied by such fees as may be prescribed.

(3) After the receipt of an application under sub-section (1), the registering officer shall register the establishment and issue a certificate of registration to the employer thereof in such form and within such time and subject to such conditions as may be prescribed.

(4) Where, after the registration of an establishment under this section, any change occurs in the ownership or management or other prescribed particulars in respect of such establishment, the particulars regarding such change shall be intimated by the employer to the registering officer within thirty days of such change in such form as may be prescribed.

8. If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the registration of any establishment has been obtained by misrepresentation or suppression of any material fact or that the provisions of this Act are not being complied with in relation to any work carried on by such establishment, or that for any other reason the registration has become useless or ineffective and, therefore, requires to be revoked, he may, after giving an opportunity to the employer of the establishment to be heard, revoke the registration.

Revocation of
registration in
certain cases.

9. (1) Any person aggrieved by an order made under section 8 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to the appellate officer who shall be a person nominated in this behalf by the appropriate Government:

Appeal.

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard, confirm, modify or reverse the order of revocation as expeditiously as possible.

10. No employer of an establishment to which this Act applies shall,—

Effect of non-
registration.

(a) in the case of an establishment required to be registered under section 7, but which has not been registered under that section;

(b) in the case of an establishment the registration in respect of which has been revoked under section 8 and no appeal has been preferred against such order of revocation under section 9 within the period prescribed for the preferring of such appeal or where an appeal has been so preferred, such appeal has been dismissed,

employ building workers in the establishment after the expiry of the period referred to in clause (a) or clause (b) of sub-section (1) of section 7, or after the revocation of registration

under section 8 or after the expiry of the period for preferring an appeal under section 9 or after the dismissal of the appeal, as the case may be.

CHAPTER IV

REGISTRATION OF BUILDING WORKERS AS BENEFICIARIES

Beneficiaries of
the Fund.

11. Subject to the provisions of this Act, every building worker registered as a beneficiary under this Act shall be entitled to the benefits provided by the Board from its Fund under this Act.

Registration of
building
workers as
beneficiaries.

12. (1) Every building worker who has completed eighteen years of age, but has not completed sixty years of age, and who has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months shall be eligible for registration as a beneficiary under this Act.

(2) An application for registration shall be made in such form, as may be prescribed, to the officer authorised by the Board in this behalf.

(3) Every application under sub-section (2) shall be accompanied by such documents together with such fee not exceeding fifty rupees as may be prescribed.

(4) If the officer authorised by the Board under sub-section (2) is satisfied that the applicant has complied with the provisions of this Act and the rules made thereunder, he shall register the name of the building worker as a beneficiary under this Act:

Provided that an application for registration shall not be rejected without giving the applicant an opportunity of being heard.

(5) Any person aggrieved by the decision under sub-section (4) may, within thirty days from the date of such decision, prefer an appeal to the Secretary of the Board or any other officer specified by the Board in this behalf and the decision of the Secretary or such other officer on such appeal shall be final:

Provided that the Secretary or any other officer specified by the Board in this behalf may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the building worker was prevented by sufficient cause from filing the appeal in time.

(6) The Secretary of the Board shall cause to maintain such registers as may be prescribed.

Identity cards.

13. (1) The Board shall give to every beneficiary an identity card with his photograph duly affixed thereon and with enough space for entering the details of the building or other construction work done by him.

(2) Every employer shall enter in the identity card the details of the building or other construction work done by the beneficiary and authenticate the same and return it to the beneficiary.

(3) A beneficiary who has been issued an identity card under this Act shall produce the same whenever demanded by any officer of Government or the Board, any inspector or any other authority for inspection.

Cessation as a
beneficiary.

14. (1) A building worker who has been registered as a beneficiary under this Act shall cease to be as such when he attains the age of sixty years or when he is not engaged in building or other construction work for not less than ninety days in a year.

Provided that in computing the period of ninety days under this sub-section, there shall be excluded any period of absence from the building or other construction work due

to any personal injury caused to the building worker by accident arising out of and in the course of his employment.

(2) Notwithstanding anything contained in sub-section (1), if a person had been a beneficiary for at least three years continuously immediately before attaining the age of sixty years, he shall be eligible to get such benefits as may be prescribed.

Explanation.—For computing the period of three years as a beneficiary with a Board under this sub-section, there shall be added any period for which a person had been a beneficiary with any other Board immediately before his registration.

15. Every employer shall maintain a register in such form as may be prescribed showing the details of employment of beneficiaries employed in the building or other construction work undertaken by him and the same may be inspected without any prior notice by the Secretary of the Board or any other officer duly authorised by the Board in this behalf.

Register of
beneficiaries.

16. (1) A building worker who has been registered as a beneficiary under this Act shall, until he attains the age of sixty years, contribute to the Fund at such rate per mensem, as may be specified by the State Government, by notification in the Official Gazette and different rates of contribution may be specified for different classes of building workers:

Contribution of
building
workers.

Provided that the Board may, if satisfied that a beneficiary is unable to pay his contribution due to any financial hardship, waive the payment of contribution for a period not exceeding three months at a time.

(2) A beneficiary may authorise his employer to deduct his contribution from his monthly wages and to remit the same, within fifteen days from such deduction, to the Board.

17. When a beneficiary has not paid his contribution under sub-section (1) of section 16 for a continuous period of not less than one year, he shall cease to be a beneficiary:

Effect of non-
payment of
contribution.

Provided that if the Secretary of the Board is satisfied that the non-payment of contribution was for a reasonable ground and that the building worker is willing to deposit the arrears, he may allow the building worker to deposit the contribution in arrears and on such deposit being made, the registration of building worker shall stand restored.

CHAPTER V

BUILDING AND OTHER CONSTRUCTION WORKERS' WELFARE BOARDS

18. (1) Every State Government shall, with effect from such date as it may, by notification, appoint, constitute a Board to be known as the (name of the State) Building and Other Construction Workers' Welfare Board to exercise the powers conferred on, and perform the functions assigned to, it under this Act.

Constitution of
State Welfare
Boards.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The Board shall consist of a chairperson, a person to be nominated by the Central Government and such number of other members, not exceeding fifteen, as may be appointed to it by the State Government:

Provided that the Board shall include an equal number of members representing the State Government, the employers and the building workers and that at least one member of the Board shall be a woman.

(4) The terms and conditions of appointment and the salaries and other allowances payable to the chairperson and the other members of the Board, and the

manner of filling of casual vacancies of the members of the Board, shall be such as may be prescribed.

Secretary and
other officers of
Boards.

19. (1) The Board shall appoint a Secretary and such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The Secretary of the Board shall be its chief executive officer.

(3) The terms and conditions of appointment and the salary and allowances payable to the Secretary and the other officers and employees of the Board shall be such as may be prescribed.

Meetings of
Boards.

20. (1) The Board shall meet at such time and place and observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be prescribed.

(2) The chairperson or, if for any reason he is unable to attend a meeting of the Board, any member nominated by the chairperson in this behalf and in the absence of such nomination, any other member elected by the members present from amongst themselves at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the members present and voting; and in the event of equality of votes, the chairperson, or in his absence, the person presiding, shall have a second or a casting vote.

Vacancies, etc.,
not to
invalidate
proceedings of
the Boards.

21. No act or proceedings of a Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board;

or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Functions of
the Boards.

22. (1) The Board may—

(a) provide immediate assistance to a beneficiary in case of accident;

(b) make payment of pension to the beneficiaries who have completed the age of sixty years;

(c) sanction loans and advances to a beneficiary for construction of a house not exceeding such amount and on such terms and conditions as may be prescribed;

(d) pay such amount in connection with premia for Group Insurance Scheme of the beneficiaries as it may deem fit;

(e) give such financial assistance for the education of children of the beneficiaries as may be prescribed;

(f) meet such medical expenses for treatment of major ailments of a beneficiary or, such dependant, as may be prescribed;

(g) make payment of maternity benefit to the female beneficiaries; and

(h) make provision and improvement of such other welfare measures and facilities as may be prescribed.

(2) The Board may grant loan or subsidy to a local authority or an employer in aid of any scheme approved by the State Government for the purpose connected with the

welfare of building workers in any establishment.

(3) The Board may pay annually grants-in-aid to a local authority or to an employer who provides to the satisfaction of the Board welfare measures and facilities of the standard specified by the Board for the benefit of the building workers and the members of their family, so, however, that the amount payable as grants-in-aid to any local authority or employer shall not exceed—

(a) the amount spent in providing welfare measures and facilities as determined by the State Government or any person specified by it in this behalf, or

(b) such amount as may be prescribed,

whichever is less:

Provided that no grant-in-aid shall be payable in respect of any such welfare measures and facilities where the amount spent thereon determined as aforesaid is less than the amount prescribed in this behalf.

23. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to a Board grants and loans of such sums of money as the Government may consider necessary.

24. (1) There shall be constituted by a Board a fund to be called the Building and Other Construction Workers' Welfare Fund and there shall be credited thereto—

(a) any grants and loans made to the Board by the Central Government under section 23;

(b) all contributions made by the beneficiaries;

(c) all sums received by the Board from such other sources as may be decided by the Central Government.

(2) The Fund shall be applied for meeting—

(a) expenses of the Board in the discharge of its functions under section 22; and

(b) salaries, allowances and other remuneration of the members, officers and other employees of the Board;

(c) expenses on objects and for purposes authorised by this Act.

(3) No Board shall, in any financial year, incur expenses towards salaries, allowances and other remuneration to its members, officers and other employees and for meeting the other administrative expenses exceeding five per cent. of its total expenses during that financial year.

25. The Board shall prepare, in such form and at such time each financial year, as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board and forward the same to the State Government and the Central Government.

26. The Board shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government and the Central Government.

27. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

Grants and loans by the Central Government.

Building and Other Construction Workers' Welfare Fund and its application.

Budget.

Annual report.

Accounts and audit.

(2) The Comptroller and Auditor-General of India or any other person appointed by him in connection with the auditing of the accounts of the Board under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board under this Act.

(3) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India annually and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(4) The Board shall furnish to the State Government before such date as may be prescribed its audited copy of accounts together with the auditor's report.

(5) The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before the State Legislature.

CHAPTER VI

HOURS OF WORK, WELFARE MEASURES AND OTHER CONDITIONS OF SERVICE OF BUILDING WORKERS

Fixing hours
for normal
working day,
etc.

28. (1) The appropriate Government may, by rules,—

(a) fix the number of hours of work which shall constitute a normal working day for a building worker, inclusive of one or more specified intervals;

(b) provide for a day of rest in every period of seven days which shall be allowed to all building workers and for the payment of remuneration in respect of such days of rest;

(c) provide for payment of work on a day of rest at a rate not less than the overtime rate specified in section 29.

(2) The provisions of sub-section (1) shall, in relation to the following classes of building workers, apply only to such extent, and subject to such conditions, as may be prescribed, namely:—

(a) persons engaged on urgent work, or in any emergency which could not have been foreseen or prevented;

(b) persons engaged in a work in the nature of preparatory or complementary work which must necessarily be carried on outside the normal hours of work laid down in the rules;

(c) persons engaged in any work which for technical reasons has to be completed before the day is over;

(d) persons engaged in a work which could not be carried on except at times dependant on the irregular action of natural forces.

Wages for
overtime work.

29. (1) Where any building worker is required to work on any day in excess of the number of hours constituting a normal working day, he shall be entitled to wages at the rate of twice his ordinary rate of wages.

(2) For the purposes of this section, "ordinary rates of wages" means the basic wages plus such allowances as the worker is for the time being entitled to but does not include any bonus.

30. (1) Every employer shall maintain such registers and records giving such particulars of building workers employed by him, the work performed by them, the number of hours of work which shall constitute a normal working day for them, a day of rest in every period of seven days which shall be allowed to them, the wages paid to them, the receipts given by them and such other particulars in such form as may be prescribed.

Maintenance of registers and records.

(2) Every employer shall keep exhibited, in such manner as may be prescribed, in the place where such workers may be employed, notices in the prescribed form containing the prescribed particulars.

(3) The appropriate Government may, by rules, provide for the issue of wage books or wage slips to building workers employed in an establishment and prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

31. No person about whom the employer knows or has reason to believe that he is a deaf or he has a defective vision or he has a tendency to giddiness shall be required or allowed to work in any such operation of building or other construction work which is likely to involve a risk of any accident either to the building worker himself or to any other person.

Prohibition of employment of certain persons in certain building or other construction work.
Drinking water.

32. (1) The employer shall make in every place where building or other construction work is in progress, effective arrangements to provide and maintain at suitable points conveniently situated for all persons employed therein, a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "Drinking Water" in a language understood by a majority of the persons employed in such place and no such point shall be situated within six metres of any washing place, urinal or latrine.

33. In every place where building or other construction work is carried on, the employer shall provide sufficient latrine and urinal accommodation of such types as may be prescribed and they shall be so conveniently situated as may be accessible to the building workers at all times while they are in such place.

Latrines and urinals.

Provided that it shall not be necessary to provide separate urinals in any place where less than fifty persons are employed or where the latrines are connected to a water-borne sewage system.

34. (1) The employer shall provide, free of charges and within the work site or as near to it as may be possible, temporary living accommodation to all building workers employed by him for such period as the building or other construction work is in progress.

Accommodation.

(2) The temporary accommodation provided under sub-section (1) shall have separate cooking place, bathing, washing and lavatory facilities.

(3) As soon as may be, after the building or other construction work is over, the employer shall, at his own cost, cause removal or demolition of the temporary structures erected by him for the purpose of providing living accommodation, cooking place or other facilities to the building workers as required under sub-section (1) and restore the ground in good level and clean condition.

(4) In case an employer is given any land by a Municipal Board or any other local authority for the purposes of providing temporary accommodation for the building workers under this section, he shall, as soon as may be after the construction work is over, return the possession of such land in the same condition in which he received the same.

Creches.

35. (1) In every place wherein, more than fifty female building workers are ordinarily employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such female workers.

(2) Such rooms shall—

- (a) provide adequate accommodation;
- (b) be adequately lighted and ventilated;
- (c) be maintained in a clean and sanitary condition;
- (d) be under the charge of women trained in the care of children and infants.

First-aid.

36. Every employer shall provide in all the places where building or other construction work is carried on such first-aid facilities as may be prescribed.

Canteens, etc.

37. The appropriate Government may, by rules, require the employer—

- (a) to provide and maintain in every place wherein not less than two hundred and fifty building workers are ordinarily employed, a canteen for the use of the workers;
- (b) to provide such other welfare measures for the benefit of building workers as may be prescribed.

CHAPTER VII

SAFETY AND HEALTH MEASURES

Safety Committee and safety officers.

38. (1) In every establishment wherein five hundred or more building workers are ordinarily employed, the employer shall constitute a Safety Committee consisting of such number of representatives of the employer and the building workers as may be prescribed by the State Government;

Provided that the number of persons representing the workers, shall, in no case, be less than the persons representing the employer.

(2) In every establishment referred to in sub-section (1), the employer shall also appoint a safety officer who shall possess such qualifications and perform such duties as may be prescribed.

Notice of certain accidents.

39. (1) Where in any establishment an accident occurs which causes death or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such a nature as may be prescribed, the employer shall give notice thereof to such authority, in such form and within such time as may be prescribed.

(2) On receipt of a notice under sub-section (1) the authority referred to in that sub-section may make such investigation or inquiry as it considers necessary.

(3) Where a notice given under sub-section (1) relates to an accident causing death of five or more persons, the authority shall make an inquiry into such accident within one month of the receipt of the notice.

Power of appropriate Government to make rules for the safety and health of building workers.

40. (1) The appropriate Government may, by notification, make rules regarding the measures to be taken for the safety and health of building workers in the course of their employment and the equipment and appliances necessary to be provided to them for ensuring their safety, health and protection, during such employment.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the safe means of access to, and the safety of, any working place, including the provision of suitable and sufficient scaffolding at various stages when work cannot be safely done from the ground or from any part of a building or from a ladder or such other means of support;

(b) the precautions to be taken in connection with the demolition of the whole or any substantial part of a building or other structure under the supervision of a competent person and the avoidance of danger from collapse of any building or other structure while removing any part of the framed building or other structure by shoring or otherwise;

(c) the handling or use of explosive under the control of competent persons so that there is no exposure to the risk of injury from explosion or from flying material;

(d) the erection, installation, use and maintenance of transporting equipment, such as locomotives, trucks, wagons and other vehicles and trailers and appointment of competent persons to drive or operate such equipment;

(e) the erection, installation, use and maintenance of hoists, lifting appliances and lifting gear including periodical testing and examination and heat treatment, where necessary, precautions to be taken while raising or lowering loads, restrictions on carriage of persons and appointment of competent persons on hoists or other lifting appliances;

(f) the adequate and suitable lighting of every workplace and approach thereto, of every place where raising or lowering operations with the use of hoists, lifting appliances or lifting gears are in progress and of all openings dangerous to building workers employed;

(g) the precautions to be taken to prevent inhalation of dust, fumes, gases or vapours during any grinding, cleaning, spraying or manipulation of any material and steps to be taken to secure and maintain adequate ventilation of every working place or confined space;

(h) the measures to be taken during stacking or unstacking, stowing or unstowing of materials or goods or handling in connection therewith;

(i) the safeguarding of machinery including the fencing of every fly-wheel and every moving part of a prime mover and every part of transmission or other machinery, unless it is in such a position or of such construction as to be safe to every worker working on any of the operations and as if it were securely fenced;

(j) the safe handling and use of plant, including tools and equipment operated by compressed air;

(k) the precautions to be taken in case of fire;

(l) the limits of weight to be lifted or moved by workers;

(m) the safe transport of workers to or from any workplace by water and provision of means for rescue from drowning;

(n) the steps to be taken to prevent danger to workers from live electric wires or apparatus including electrical machinery and tools and from overhead wires;

(o) the keeping of safety nets, safety sheets and safety belts where the special nature or the circumstances of work render them necessary for the safety of the workers;

(p) the standards to be complied with regard to scaffolding, ladders and stairs, lifting appliances, ropes, chains and accessories, earth moving equipments and floating operational equipments;

(q) the precautions to be taken with regard to pile driving, concrete work, work with hot asphalt, tar or other similar things, insulation work, demolition operations, excavation, underground construction and handling materials;

(r) the safety policy, that is to say, a policy relating to steps to be taken to ensure the safety and health of the building workers, the administrative arrangements therefor and the matters connected therewith, to be framed by the employers and contractors for the operations to be carried on in a building or other construction work;

(s) the information to be furnished to the Bureau of Indian Standards established under the Bureau of Indian Standards Act, 1986, regarding the use of any article or process covered under that Act in a building or other construction work;

63 of 1986.

(t) the provision and maintenance of medical facilities for building workers;

(u) any other matter concerning the safety and health of workers working in any of the operations being carried on in a building or other construction work.

Framing of
model rules for
safety
measures.

41. The Central Government may, after considering the recommendation of the expert committee constituted under section 5, frame model rules in respect of all or any of the matters specified in section 40 and where any such model rules have been framed in respect of any such matter, the appropriate Government shall, while making any rules in respect of that matter under section 40, so far as is practicable, conform to such model rules.

CHAPTER VIII

INSPECTING STAFF

Appointment of
Director-
General, Chief
Inspector and
Inspectors.

42. (1) The Central Government may, by notification, appoint a Gazetted Officer of that Government to be the Director-General of Inspection who shall be responsible for laying down the standards of inspection and shall also exercise the powers of an Inspector throughout India in relation to all the establishments for which the Central Government is the appropriate Government.

(2) The State Government may, by notification, appoint a Gazetted Officer of that Government to be the Chief Inspector of Inspection of Building and Construction who shall be responsible for effectively carrying out the provisions of this Act in the State and shall also exercise the powers of an Inspector under this Act throughout the State in relation to establishments for which the State Government is the appropriate Government.

(3) The appropriate Government may, by notification, appoint such number of its officers as it thinks fit to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(4) Every Inspector appointed under this section shall be subject to the control of the Director-General or the Chief Inspector, as the case may be, and shall exercise his powers and perform his functions under this Act subject to general control and supervision of the Director-General or the Chief Inspector.

(5) The Director-General, the Chief Inspector and every Inspector shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Powers of
Inspectors.

43. (1) Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed,—

(a) enter, at all reasonable hours, with such assistants (if any) being persons in the service of the Government or any local or other public authority as he thinks fit, any premises or place where building or other construction work is carried on, for the purpose of examining any register or record, or notices required to be kept or exhibited by or under this Act, and require the production thereof for inspection;

(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is a building worker employed therein;

(c) require any person giving out building or other construction work to any building worker, to give any information, which is in his power to give with respect to the names and addresses of the persons to, for and whom the building or other construction work is given out or received, and with respect to the payments to be made for the building or other construction work;

(d) seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the employer; and

(e) exercise such other powers as may be prescribed.

(2) For the purposes of this section, the Director-General or the Chief Inspector, as the case may be, may employ experts or agencies having such qualifications and experience and on such terms and conditions as may be prescribed.

(3) Any person required to produce any document or to give any information required by an Inspector under sub-section (1) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.

(4) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to such search or seizure under sub-section (1) as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

CHAPTER IX

SPECIAL PROVISIONS

44. An employer shall be responsible for providing constant and adequate supervision of any building or other construction work in his establishment as to ensure compliance with the provisions of this Act relating to safety and for taking all practical steps necessary to prevent accidents.

Responsibility
of employers.

45. (1) An employer shall be responsible for payment of wages to each building worker employed by him and such wages shall be paid on or before such date as may be prescribed.

Responsibility
for payment of
wages and
compensation.

(2) In case the contractor fails to make payment of compensation in respect of a building worker employed by him, where he is liable to make such payment when due, or makes short payment thereof, then, in the case of death or disablement of the building worker, the employer shall be liable to make payment of that compensation in full or the unpaid balance due in accordance with the provisions of the Workmen's Compensation Act, 1923, and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

8 of 1923.

46. (1) An employer shall, at least thirty days before the commencement of any building or other construction work, send or cause to be sent to the Inspector having jurisdiction in the area where the proposed building or other construction work is to be executed, a written notice containing—

Notice of
commencement
of building or
other
construction
work.

(a) the name and situation of the place where the building or other construction work is proposed to be carried on;

(b) the name and address of the person who is undertaking the building or other construction work;

(c) the address to which communications relating to the building or other construction work may be sent;

(d) the nature of the work involved and the facilities, including any plant and machinery, provided;

(e) the arrangements for the storage of explosives, if any, to be used in the building or other construction work;

(f) the number of workers likely to be employed during the various stages of building or other construction work;

(g) the name and designation of the person who will be in overall charge of the building or other construction work at the site;

(h) the approximate duration of the work;

(i) such other matters as may be prescribed.

(2) Where any change occurs in any of the particulars furnished under sub-section (1), the employer shall intimate the change to the Inspector within two days of such change.

(3) Nothing contained in sub-section (1) shall apply in case of such class of building or other construction work as the appropriate Government may by notification specify to be emergent works.

CHAPTER X

PENALTIES AND PROCEDURE

Penalty for
contravention
of provisions
regarding
safety
measures.

47. (1) Whoever contravenes the provisions of any rules made under section 40 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) If any person who has been convicted of any offence punishable under sub-section (1) is again guilty of an offence involving a contravention or failure of compliance of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to six months or with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees or with both:

Provided that for the purposes of this sub-section, no cognizance shall be taken of any conviction made more than two years before the commission of the offence for which the person is subsequently being convicted:

Provided further that the authority imposing the penalty, if it is satisfied that there are exceptional circumstances warranting such a course may, after recording its reasons in writing, impose a fine of less than five hundred rupees.

Penalty for
failure to give
notice of the
commencement
of the building
or other
construction
work.

48. Where an employer fails to give notice of the commencement of the building or other construction work under section 46, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both.

Penalty for
obstructions.

49. (1) Whoever obstructs an Inspector in the discharge of his duties under this Act or refuses or wilfully neglects to afford the Inspector any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in

relation to an establishment shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of an Inspector any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before, or being examined by, an Inspector acting in pursuance of his duties under this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

50. (1) Whoever contravenes any other provision of this Act or any rules made thereunder or who fails to comply with any provision of this Act or any rules made thereunder shall, where no express penalty is elsewhere provided for such contravention or failure, be punishable with fine which may extend to one thousand rupees for every such contravention or failure, as the case may be, and in the case of a continuing contravention or failure, as the case may be, with an additional fine which may extend to one hundred rupees for every day during which such contravention or failure continues after the conviction for the first such contravention or failure.

Penalty for other offences.

(2) A penalty under sub-section (1) may be imposed—

(a) by the Director-General where the contravention or failure relates to a matter to which the appropriate Government is the Central Government; and

(b) by the Chief Inspector where the contravention or failure relates to a matter to which the appropriate Government is the State Government.

(3) No penalty shall be imposed unless the person concerned is given a notice in writing—

(a) informing him of the grounds on which it is proposed to impose a penalty; and

(b) giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the imposition of penalty mentioned therein, and, if he so desires, of being heard in the matter.

(4) Without prejudice to any other provision contained in this Act, the Director-General and the Chief Inspector shall have all the powers of a civil court under the Code of Civil Procedure, 1908, while exercising any powers under this section, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record or copy thereof from any court or office;

(d) receiving evidence on affidavits; and

(e) issuing commissions for the examination of witnesses or documents.

(5) Nothing contained in this section shall be construed to prevent the person concerned from being prosecuted under any other provision of this Act or any other law for any offence made punishable by this Act or by that other law, as the case may be, or for being liable under this Act or any such law to any other or higher penalty or punishment than is provided for such offence by this section.

Provided that no person shall be punished twice for the same offence.

Appeal.

51. Any person aggrieved by the imposition of any penalty under section 50 may prefer an appeal—

(a) where the penalty has been imposed by the Director-General, to the Central Government;

(b) where the penalty has been imposed by the Chief Inspector, to the State Government,

within a period of three months from the date of communication to such person of the imposition of such penalty:

Provided that the Central Government or the State Government, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring an appeal within the aforesaid period of three months, allow such appeal to be preferred within a further period of three months.

(2) The appellate authority may, after giving the appellant an opportunity of being heard, if he so desires, and after making such further inquiry, if any, as it may consider necessary, pass such order as it thinks fit confirming, modifying or reversing the order appealed against or may send back the case with such directions as it may think fit for a fresh decision.

Recovery of penalty.

52. Where any penalty imposed on any person under section 50 is not paid,—

(i) the Director-General or, as the case may be, the Chief Inspector may deduct the amount so payable from any money owing to such person which may be under his control; or

(ii) the Director-General or, as the case may be, the Chief Inspector may recover the amount so payable by detaining or selling the goods belonging to such person which are under his control; or

(iii) if the amount cannot be recovered from such person in the manner provided in clause (i) or clause (ii), the Director-General or, as the case may be, the Chief Inspector may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector, on receipt of such certificate shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue.

Offences by companies.

53. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

54. (1) No court shall take cognizance of any offence punishable under this Act except on a complaint—

Cognizance of offences.

(a) made by, or with the previous sanction in writing of, the Director-General or the Chief Inspector; or

21 of 1860.

(b) made by an office-bearer of a voluntary organisation registered under the Societies Registration Act, 1860; or

16 of 1926.

(c) made by an office-bearer of any concerned trade union registered under the Trade Unions Act, 1926.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

55. No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of the Director-General; the Chief Inspector, an office-bearer of a voluntary organisation or, as the case may be, an office-bearer of any concerned trade union.

Limitation of prosecutions.

CHAPTER XI

MISCELLANEOUS

56. A Board may, by general or special order, delegate to the Chairperson or any other member or to the Secretary or any other officer or employee of the Board, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary.

Delegation of powers.

57. Every Board shall furnish from time to time to the Central Government and to the State Government such returns as they may require.

Returns.

58. The provisions of the Workmen's Compensation Act, 1923, shall so far as may be, apply to building workers as if the employment to which this Act applies had been included in the Second Schedule to that Act.

Application of Act 8 of 1923 to building workers.

59. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Protection of action taken in good faith.

(2) No prosecution or other legal proceeding shall lie against the Government, any Board or Committees constituted under this Act or any member of such Board or any officer or employee of the Government or the Board or any other person authorised by the Government or any Board or Committee, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made or issued thereunder.

60. The Central Government may give directions to the Government of any State or to a Board as to the carrying into execution in that State of any of the provisions of this Act.

Power of Central Government to give directions.

61. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power to make rules.

62. (1) The appropriate Government may, after consultation with the expert committee, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number of persons to be appointed as members representing various interests on the Central Advisory Committee and the State Advisory Committees, the term of their office and other conditions of service, the procedure to be followed in the discharge of their functions and the manner of filling vacancies under sub-section (3) of section 3 or, as the case may be, under sub-section (3) of section 4;

(b) the fees and allowances that may be paid to the members of the expert committee for attending its meetings under sub-section (2) of section 5;

(c) the form of application for the registration of an establishment, the levy of fees therefor and the particulars it may contain under sub-section (2) of section 7;

(d) the form of certificate of registration, the time within which and the conditions subject to which such certificate may be issued under sub-section (3) of section 7;

(e) the form in which the change in ownership or management or other particulars shall be intimated to the registering officer under sub-section (4) of section 7;

(f) the form in which an application for registration as a beneficiary shall be made under sub-section (2) of section 12;

(g) the document and the fee which shall accompany the application under sub-section (3) of section 12;

(h) the registers which the Secretary of the Board shall cause to be maintained under sub-section (6) of section 12;

(i) the benefits which may be given under sub-section (2) of section 14;

(j) the form in which register of beneficiaries shall be maintained under section 15;

(k) the terms and conditions of appointment, the salaries and other allowances payable to, and the manner of filling of casual vacancies of, the Chairperson and other members of the Board under sub-section (4) of section 18;

(l) the terms and conditions of service and the salaries and allowances payable to the Secretary and the other officers and employees of the Board under sub-section (3) of section 19;

(m) the time and place of the meeting of the Board and the rules of procedure to be followed at such meeting under sub-section (1) of section 20 including quorum necessary for the transaction of business;

(n) the amount payable as house building loans or advances, the terms and conditions of such payment under clause (c), educational assistance under clause (e), medical expenses payable and the persons who shall be the dependent of the beneficiaries under clause (f), and the other welfare measures for which provision may be made under clause (h), of sub-section (1) of section 22;

(o) the limits of grants-in-aid payable to the local authorities and employers under clause (b) of sub-section (3) of section 22;

(p) the form in which and the time within which the budget of the Board shall be prepared and forwarded to Government under section 25;

(q) the form in which and the time within which the annual report of the Board shall be submitted to the State Government and the Central Government under section 26;

(r) the form of annual statement of accounts under sub-section (1), and the date before which the audited copy of the accounts together with the auditor's report shall be furnished under sub-section (4), of section 27;

(s) the matters required to be provided under sub-section (1) of section 28 and the extent up to which, and the conditions subject to which, the provisions of that sub-section shall apply to the building workers under sub-section (2) of that section;

(t) the registers and records that shall be maintained by the employer and the form in which such registers and records shall be maintained and the particulars to be included therein under sub-section (1) of section 30;

(u) the form and manner in which a notice shall be exhibited and the particulars it may contain under sub-section (2) of section 30;

(v) the issue of wage books or wage slips to building workers and the manner in which entries are to be made and authenticated in wage books or wage slips under sub-section (3) of section 30;

(w) the types of latrines and urinals required to be provided under section 33;

(x) the first-aid facilities which are to be provided under section 36;

(y) the canteen facilities which are to be provided under clause (a) of section 37;

(z) the welfare measures which are to be provided under clause (b) of section 37;

(za) the number of representatives of the employer and the building workers under sub-section (1) of section 38 and the qualifications of safety officers and the duties to be performed by them under sub-section (2) of that section;

(zb) the form of a notice of accident, other matters to be provided in this behalf and the time within which such notice shall be given under sub-section (1) of section 39;

(zc) the rules to be made for the safety and health of building workers under section 40;

(zd) the powers that may be exercised by an Inspector under clause (e) of sub-section (1) of section 43 and the qualifications and experience which the experts or agencies employed under sub-section (2) of that section shall possess and the terms and conditions on which such experts or agencies may be employed;

(ze) the date on or before which wages shall be paid to a building worker under section 45;

(zf) the matters which are required to be prescribed under clause (i) of sub-section (1) of section 46;

(zg) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or

both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or, where such Legislature consists of one House, before that House.

Saving of
certain laws.

63. Nothing contained in this Act shall affect the operation of any corresponding law in a State providing welfare schemes which are more beneficial to the building and other construction workers than those provided for them by or under this Act.

Repeal and
saving.

64. (1) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Third Ordinance, 1996, is hereby repealed.

Ord
25 of 1996.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

Sd/-

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette
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Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, 10th August, 1998.

No. RP/41/98/Ordi. 13/98/E :—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 25th April, 1998 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 25th April, 1998/Vaisakha 5, 1920 (Saka)

THE ESSENTIAL COMMODITIES (AMENDMENT)
ORDINANCE, 1998

No. 13 of 1998

Promulgated by the President in the Forty-ninth Year of the
Republic of India

An Ordinance further to amend the Essential Commodities Act, 1955.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Essential Commodities (Amendment) Ordinance, 1998.

(2) It shall come into force at once.

Short title and
commence-
ment.

Amendment of
section 2.

2. In section 2 of the Essential Commodities Act, 1955. (hereinafter referred to as the principal Act),—

(a) clause (ia) shall be re-numbered as clause (iia); and before clause (iia) as so re-numbered, the following clause shall be inserted, namely:—

(ia) "Code" means the Code of Criminal Procedure, 1973; and

2 of 1974

(b) in clause (a), sub-clause (iii) shall be omitted;

(c) after clause (e), the following clause shall be inserted, namely:—

"(f) words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in that Code."

Amendment of
section 3.

3. In section 3 of the principal Act,—

(i) in sub-section (2), to clause (j), the following proviso shall be inserted, namely:—

"Provided that where a person authorised under an order issued under this section to make the entry, search, examination or seizure is below the rank of a Magistrate of the first class or its equivalent, he shall obtain prior permission of an officer not below the rank of a Magistrate of the first class or its equivalent before making such entry, search, examination or seizure."

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

(2A) An order made under this section may provide for certain allowance for difference between physical stock and stock in record of any essential commodity which may occur due to climatic conditions or handling of the essential commodity."

Amendment of
section 6A.

4. In section 6A of the principal Act, for the proviso to sub-section (2), the following proviso shall be substituted, namely:—

"Provided that, in case of any essential commodity the retail sale price whereof has been fixed by the Central Government or a State Government under this Act or under any other law for the time being in force and which is being sold through fair price shops, the Collector may, for its equitable distribution and availability at fair prices, order the same to be sold through fair price shops at the price so fixed."

Amendment of
section 7.

5. In section 7 of the principal Act,—

(a) in sub-section (1), in clause (a),—

(i) for sub-section (i), the following sub-clause shall be substituted, namely:—

"(i) in the case of an order made with reference to clause (h) or clause (i) of sub-section (2) of that section, with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both:

Provided that, if any person is again convicted of the same offence under this sub-clause, he shall be punishable with imprisonment for the second and for every subsequent offence for a term which shall not be less than three months but which may extend to one year and with fine which may extend to twenty thousand rupees or with both;

Provided further that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months;"

(ii) in sub-clause (ii), for the words "seven years and shall also be liable to fine", the words "two years and shall also be liable to fine which shall not be less than twenty-five thousand rupees" shall be substituted;"

(b) in sub-section (2), for the words "seven years and shall also be liable to fine", the words "two years and shall also be liable to fine which shall not be less than twenty-five thousand rupees" shall be substituted;

(c) in sub-section (2A), for the words "seven years and shall also be liable to fine", the words "two years and shall also be liable to fine which shall not be less than fifty thousand rupees" shall be substituted.

6. For section 10A of the principal Act, the following section shall be substituted, namely:—

Amendment of section 10A.

"10A. Notwithstanding anything contained in the Code, every offence punishable under—

Provision as to cognizance and bill.

(a) this Act shall be cognizable;

(b) this Act, except under sub-clause (h) or sub-clause (i) of clause (a) of sub-section (1) of section 7, shall be non-bailable;

(c) sub-clause (h) or sub-clause (i) of clause (a) of sub-section (1) of section 7, if committed more than once, shall be non-bailable for the second and every subsequent offence."

7. After section 10A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 10AA.

"10AA. Notwithstanding anything contained in the Code, no officer below the rank of sub-inspector of police shall arrest any person accused of committing an offence punishable under this Act."

Power to arrest.

8. Section 12 of the principal Act shall be omitted.

Omission of section 12.

9. For section 12A of the principal Act, the following sections shall be substituted, namely:—

Substitution of new section for section 12A.

12A. (1) The State Government may, for the purpose of providing speedy trial of the offences under this Act, by notification in the Official Gazette, constitute as many Special Courts as may be necessary for such area or areas as may be specified in the notification.

Constitution of Special Court.

(2) A Special Court shall consist of a single judge who shall be appointed by the High Court upon a request made by the State Government.

Explanation.—In this sub-section, the word "appoint" shall have the meaning given to it in the *Explanation* to section 9 of the Code.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless—

(a) He is qualified for appointment as a Judge of a High Court, or

(b) he has, for a period of not less than one year, been a Sessions Judge or an Additional Sessions Judge.

12AA. (1) Notwithstanding anything contained in the Code,—

Offences triable by special courts.

(a) all offences under this Act shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court;

(b) a Special Court may, upon a perusal of police report of the facts constituting an offence under this Act or upon a complaint made by an Officer of the Central Government or a State Government authorised in this behalf by the Government concerned or any person aggrieved or any recognised consumer association, whether such person is a member of that association or not, take cognizance of that offence without the accused being committed to it for trial;

(c) all offences under this Act shall be tried in a summary way and the provisions of section 262 to 265 (both inclusive) of the Code shall, as far as may be, apply to such trial:

Provided that in the case of any conviction in a summary trial under this Section, it shall be lawful for the Special Court to pass a sentence of imprisonment for a term not exceeding two years.

(2) When Trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act, with which the accused may, under the Code, be charged at the same trial:

Provided that such other offence is, under any other law for the time being in force, triable in a summary way:

Provided further that in the case of any conviction for such other offence in such trial, it shall not be lawful for the Special Court to pass a sentence of imprisonment for a term exceeding the term provided for conviction in a summary trial under such other law.

(3) A Special Court may, with a view to obtaining the evidence of any person suspected to have been directly or indirectly concerned in, or privy to, an offence under this Act, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof and any pardon so tendered shall, for the purposes of section 308 of the Code, be deemed to have been tendered under section 307 thereof.

Appeal and
revision.

12AB. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Sessions trying cases within the local limits of the jurisdiction of the High Court.

Application of
Code to
proceedings
before a Special
Court.

12AC. Save as otherwise provided in this Act, the provisions of the Code (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Sessions and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor.

Repeal and
saving

10. (1) The Essential Commodities (Special Provisions) Second Ordinance, 1998 is hereby repealed.

Ord. 1 of
1998.

(2) Notwithstanding such repeal, if any appeal, application, trial, inquiry or investigation is pending immediately before such repeal, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the principal Act as amended by the Essential Commodities (Special Provisions) Ordinance, 1998 as in force immediately before the commencement of this Ordinance, as if, this Ordinance had not come into force.

Sd/-

K. R. NARAYANAN,
President.

Sd/-

RAGHBIR SINGH,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretray to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 13th August, 1998.

No. RP/9/98/Act 35/97/E : The following Act of Parliament is republished for general information :

GOVERNMENT OF INDIA
 MINISTRY OF LAW AND JUSTICE
 (Legislative Department)
 New Delhi, the 29th August, 1997/Bhadra 7, 1919 (Saka)

The following Act of Parliament received the assent of the President on the 29th August, 1997 and is hereby published for general information :

**THE PRESIDENTIAL AND VICE-PRESIDENTIAL
 ELECTIONS (AMENDMENT) ACT, 1997**

(Act No. 35 of 1997)

(29th August, 1997)

AN ACT

further to amend the Presidential and Vice-Presidential Elections Act, 1952.

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. (I) This Act may be called the Presidential and Vice-Presidential Elections (Amendment) Act, 1997.

Short title and commencement.

(2) It shall be deemed to have come into force on the 5th day of June, 1997.

31 of 1952.

2. In section 5B of the Presidential and Vice-Presidential Elections Act, 1952 (hereinafter referred to as the principal Act), in sub-section (I),—

Amendment of section 5B.

(i) in clause (a), for the words “ten electors” at both the places, where they occur, the words “fifty electors” shall be substituted;

(ii) in clause (b), for the words “five electors” at both the places, where they occur, the words “twenty electors” shall be substituted.

Amendment of
section 5C.

3. In section 5C of the principal Act, in sub-section (1), for the words "two thousand five hundred rupees", the words "fifteen thousand rupees" shall be substituted.

Repeal and
saving.

4. (1) The Presidential and Vice-Presidential Elections (Amendment) Ordinance, 1997, is hereby repealed.

Ord. 13 of
1997.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/-

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor, of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, 24th August, 1998.

No. RP/21-98/ORD/31 of 97/E : The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 30th December, 1997 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 30th December, 1997/Pousa 9, 1919 (Saka)

THE LOTTERIES (REGULATION) SECOND ORDINANCE, 1997

No. 31 of 1997

Promulgated by the President in the Forty-eighth Year of the Republic of India.

An Ordinance to regulate the lotteries and to provide for matters connected therewith and incidental thereto.

WHEREAS the Lotteries (Regulation) Ordinance, 1997, to provide for the aforesaid matters was promulgated by the President on the 1st day of October, 1997;

AND WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the said Ordinance;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Lotteries (Regulation) Second Ordinance, 1997.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 2nd day of October, 1997.

Short title,
extent and
commence-
ment.

Definitions.

2. In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "lottery" means a scheme, in whatever form and by whatever name called, for distribution of prizes by lot or chance to those persons participating in the chances of a prize by purchasing tickets;

(b) "prescribed" means prescribed by rules made under this Ordinance.

Prohibition of lotteries.

3. Save as otherwise provided in section 4, no State Government shall organise, conduct or promote any lottery.

Conditions subject to which lotteries may be organised, etc.

4. A State Government may organise, conduct or promote a lottery, subject to the following conditions, namely:—

(a) prizes shall not be offered on any preannounced number or on the basis of a single digit;

(b) the State Government shall print the lottery tickets bearing the imprint and logo of the State in such manner that the authenticity of the lottery ticket is ensured;

(c) the State Government shall sell the tickets either itself or through distributors or selling agents;

(d) the State Government itself shall conduct the draws of all the lotteries;

(e) the prize money unclaimed within such time as may be prescribed by the State Government or not otherwise distributed, shall become the property of that Government;

(f) the place of draw shall be located within the State concerned;

(g) no lottery shall have more than one draw in a week;

(h) the draws of all kinds of lotteries shall be conducted between such period of the day as may be prescribed by the State Government;

(i) the number of bumper draws of a lottery shall not be more than six in a calendar year;

(j) such other conditions as may be prescribed by the Central Government.

Prohibition of sale of ticket in a State.

5. A State Government may, within the State, prohibit the sale of tickets of a lottery organised, conducted or promoted by another State.

Prohibition of organisation, etc., of lottery.

6. The Central Government may, by order published in the Official Gazette, prohibit a lottery organised, conducted or promoted in contravention of the provisions of section 4 or where tickets of such lottery are sold in contravention of the provisions of section 5.

Penalty.

7. If any person acts as an agent, a promoter or trader in any lottery organised, conducted or promoted in contravention of the provisions of this Ordinance or sells, distributes or purchases the ticket of such lottery, he shall be punishable with rigorous imprisonment for a term which may extend to two years or with fine or with both.

Offences to be cognizable and non-bailable.

8. The offence under this Ordinance shall be cognizable and non-bailable.

Offences by companies.

9. (1) Where an offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

10. The Central Government may give directions to the State Government as to carrying into execution in the State of any of the provisions of this Ordinance or of any rule made thereunder.

Power to give directions.

11. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

Power of Central Government to make rules.

(2) Every rule made by the Central Government, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

12. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

Power of State Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) time to be fixed for claiming prize money under clause (e) of section 4;
- (b) period to be fixed for draws of all lotteries under clause (h) of section 4; and
- (c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Repeal and Saving.

Ord. 20 of 1997.

13. (1) The Lotteries (Regulation) Ordinance, 1997, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

Sd/-

K. R. NARAYANAN,
President.

Sd/-

RAGHBIR SINGH,
Additional Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, 24th August, 1998.

No. RP/35/98/ORD/6/98/E : The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 23rd April, 1998 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 23rd April, 1998/Vaisakha 3, 1920 (Saka)

THE LOTTERIES (REGULATION) ORDINANCE, 1998

No. 6 OF 1998

Promulgated by the President in the Forty-ninth Year of the
Republic of India.

An Ordinance to regulate the lotteries and to provide for matters connected therewith and incidental thereto.

WHEREAS the Lotteries (Regulation) Ordinance, 1997, to provide for the aforesaid matters was promulgated by the President on the 1st day of October, 1997;

AND WHEREAS for giving continued effect to the provisions of the said Ordinance, the Lotteries (Regulation) Second Ordinance, 1997 was promulgated by the President on the 30th day of December, 1997;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the Lotteries (Regulation) Second Ordinance, 1997;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Lotteries (Regulation) Ordinance, 1998.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 2nd day of October, 1997.

Short title,
extent and
commence-
ment.

Definitions.

2. In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "lottery" means a scheme, in whatever form and by whatever name called, for distribution of prizes by lot or chance to those persons participating in the chances of a prize by purchasing tickets;

(b) "prescribed" means prescribed by rules made under this Ordinance.

Prohibition of lotteries.

3. Save as otherwise provided in section 4, no State Government shall organise, conduct or promote any lottery.

Conditions subject to which lotteries may be organised, etc.

4. A State Government may organise, conduct or promote a lottery, subject to the following conditions, namely:

(a) prizes shall not be offered on any preannounced number or on the basis of a single digit;

(b) the State Government shall print the lottery tickets bearing the imprint and logo of the State in such manner that the authenticity of the lottery ticket is ensured;

(c) the State Government shall sell the tickets either itself or through distributors or selling agents;

(d) the State Government itself shall conduct the draws of all the lotteries;

(e) the prize money unclaimed within such time as may be prescribed by the State Government or not otherwise distributed, shall become the property of that Government;

(f) the place of draw shall be located within the State concerned;

(g) no lottery shall have more than one draw in a week;

(h) the draws of all kinds of lotteries shall be conducted between such period of the day as may be prescribed by the State Government;

(i) the number of bumper draws of a lottery shall not be more than six in a calendar year;

(j) such other conditions as may be prescribed by the Central Government.

Prohibition of sale of ticket in a State.

5. A State Government may, within the State, prohibit the sale of tickets of a lottery organised, conducted or promoted by another State.

Prohibition of organisation, etc., of lottery.

6. The Central Government may, by order published in the Official Gazette, prohibit a lottery organised, conducted or promoted in contravention of the provisions of section 4 or where tickets of such lottery are sold in contravention of the provisions of section 5.

Penalty.

7. If any person acts as an agent, a promoter or trader in any lottery organised, conducted or promoted in contravention of the provisions of this Ordinance or sells, distributes or purchases the ticket of such lottery, he shall be punishable with rigorous imprisonment for a term which may extend to two years or with fine or with both.

Offences to be cognizable and non-bailable.

8. The offence under this Ordinance shall be cognizable and non-bailable.

Offences by companies.

9. (1) Where an offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

10. The Central Government may give directions to the State Government as to carrying into execution in the State of any of the provisions of this Ordinance or of any rule made thereunder.

Power to give directions.

11. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

Power of Central Government to make rules.

(2) Every rule made by the Central Government, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

12. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

Power of State Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) time to be fixed for claiming prize money under clause (e) of section 4;

(b) period to be fixed for draws of all lotteries under clause (h) of section 4; and

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Ord. 31 of 1997.

13. (1) The Lotteries (Regulation) Second Ordinance, 1997, is hereby repealed.

Repeal and Saving.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

Sd/-

K. R. NARAYANAN,
President.

Sd/-

RAGHBIR SINGH,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 24th August, 1998.

No. RP/33/98/ORD/7/98/E : The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 23rd April, 1998 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 23rd April, 1998/Vaisakha 3, 1920 (Saka)

THE MERCHANT SHIPPING (AMENDMENT) ORDINANCE, 1998

No. 7 OF 1998

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance further to amend the Merchant Shipping Act, 1958.

WHEREAS the Merchant Shipping (Amendment) Ordinance, 1997 to further amend the Merchant Shipping Act, 1958 was promulgated by the President on the 26th day of September, 1997;

AND WHEREAS the Merchant Shipping (Amendment) Ordinance, 1997 could not be replaced by an Act of Parliament due to the dissolution of the House of the People;

AND WHEREAS for giving continued effect to the provisions of the said Ordinance, the Merchant Shipping (Amendment) Second Ordinance, 1997 was promulgated by the President on the 25th day of December, 1997;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the Merchant Shipping (Amendment) Second Ordinance, 1997;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Merchant Shipping (Amendment) Ordinance, 1998.

(2) It shall be deemed to have come into force on the 26th day of September, 1997.

Short title and commencement.

Amendment of
section 89.

2. In section 89 of the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), after clause (d), the following clause shall be inserted, namely:—

44 of 1958.

“(dd) to transmit the complaint of any dispute of a foreign seaman of a vessel, registered in a country other than India, in Indian territorial waters, with the master, owner or agent, to the competent authority of the country of registration and a copy of such complaint shall be forwarded to the Director General, International Labour Organisation office.”

Amendment of
section 132.

3. In section 132 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A). Any complaint of dispute, received by the Shipping master from an Indian seaman, on a vessel registered in a country other than India in Indian territorial waters, with the master, owner or agent.”

Insertion of
new section
138A.

4. After section 138 of the principal Act, the following section shall be inserted, namely:—

Working hours
of seamen.

“138A. The ordinary hours of work for all seamen shall not exceed forty-eight hours in a week.”

Amendment of
section 369.

5. In section 369 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The Central Government shall on receipt of the investigation report from the court, cause it to be published in the Official Gazette.”

Amendment of
section 436.

6. In section 436 of the principal Act, in sub-section (2), in the table, after Serial Number 42 and the entries relating thereto, the following shall be inserted, namely:—

1	2	3	4
“42A	If the master or owner contravenes the provisions of section 138A.	138A	Fine which may extend to double the average wages per hour payable to the seaman for working beyond forty-eight hours.”

Repeal and
saving.

7. (1) The Merchant Shipping (Amendment) Second Ordinance, 1997, is hereby repealed.

Ord. 27 of
1997.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

Sd/-

K. R. NARAYANAN,
President.

Sd/-

RAGHBIR SINGH,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, 27th August, 1998.

No. RP/42/98/ORD/8/98/E : The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 23rd April, 1998 is republished for general information:—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 23rd April, 1998/Vaisakha 3, 1920 (Saka)

**THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS
PROVISIONS (AMENDMENT) ORDINANCE, 1998**

No. 8 OF 1998

Promulgated by the President in the Forty-ninth Year of the
Republic of India.

An Ordinance further to amend the Employees' Provident Funds and
Miscellaneous Provisions Act, 1952.

WHEREAS a Bill further to amend the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, was introduced in the Council of States but has not yet been passed;

AND WHEREAS the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Ordinance, 1997 to give effect to the provisions of the said Bill was promulgated by the President on the 22nd day of September, 1997;

AND WHEREAS the House of the People had been dissolved and the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Second Ordinance, 1997 to give continued effect to the provisions of the said Ordinance was promulgated by the President on the 25th day of December, 1997;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Second Ordinance, 1997;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (1) This Ordinance may be called the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Ordinance, 1998.

(2) It shall be deemed to have come into force on the 2nd day of September, 1997.

Amendment of section 6.

2. In section 6 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the principal Act), for the words "eight and one-third per cent." and "ten per cent." wherever they occur, the words "ten per cent." and "twelve per cent." shall respectively be substituted.

19 of 1952.

Amendment of section 7D.

3. In section 7D of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) A person shall not be qualified for appointment as a Presiding Officer of a Tribunal (hereinafter referred to as the Presiding Officer) unless he is, or has been, or is qualified to be,—

- (i) a Judge of a High Court; or
- (ii) a district judge."

Amendment of section 7F.

4. Section 7F of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

"(2) The Presiding Officer shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the High Court in which such Presiding Officer had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Presiding Officer."

Amendment of section 16.

5. In section 16 of the principal Act, in sub-section (1),—

- (i) in clause (c), the word "or" occurring at the end shall be omitted;
- (ii) clause (d) and the *Explanation* thereto shall be omitted.

Repeal and saving.

6. (1) The Employees' Provident Funds and Miscellaneous Provisions (Amendment) Second Ordinance, 1997, is hereby repealed.

Ord. 25 of 1997.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the Ordinance so repealed, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

Sd/-

K. R. NARAYANAN,
President.

Sd/-

RAGHBIR SINGH,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 24th August, 1998.

No. RP/43/98/ORD/10/98/E : The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 23rd April, 1998 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE
 (Legislative Department)

New Delhi, the 23rd April, 1998/Vaisakha 3, 1920 (Saka)

THE PAYMENT OF GRATUITY (AMENDMENT)
ORDINANCE, 1998

No. 10 OF 1998

Promulgated by the President in the Forty-ninth Year of the
 Republic of India

An Ordinance further to amend the Payment of Gratuity Act, 1972.

WHEREAS a Bill further to amend the Payment of Gratuity Act, 1972, was introduced in the Council of States but has not yet been passed;

AND WHEREAS the Payment of Gratuity (Amendment) Ordinance, 1997 to give effect to the provisions of the said Bill was promulgated by the President on the 24th day of September, 1997;

AND WHEREAS the House of the People had been dissolved and the Payment of Gratuity (Amendment) Second Ordinance, 1997 to give continued effect to the provisions of the said Ordinance was promulgated by the President on the 25th day of December, 1997;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the Payment of Gratuity (Amendment) Second Ordinance, 1997;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and
commence-
ment.

1. (1) This Ordinance may be called the Payment of Gratuity (Amendment) Ordinance, 1998.

(2) It shall be deemed to have come into force on the 24th day of September, 1997.

Amendment of
section 4 of
Act, 39 of
1972.

2. In section 4 of the Payment of Gratuity Act, 1972, (hereinafter referred to as the principal Act), in sub-section (3), for the words "one lakh", the words "two lakhs and fifty thousand" shall be substituted.

Repeal and
saving.

3. (1) The Payment of Gratuity (Amendment) Second Ordinance, 1997, is hereby repealed.

Ord. 26 of
1997.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the Ordinance so repealed, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

Sd/-

K. R. NARAYANAN,
President.

Sd/-

RAGHBIR SINGH,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, 24th August, 1998.

No. RP/38/98/ORD/11/98/E : The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 24th April, 1998 is republished for general information:—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 24th April, 1998/Vaisakha 4, 1920 (Saka)

**THE HIGH COURT AND SUPREME COURT JUDGES (CONDITIONS
OF SERVICE) AMENDMENT ORDINANCE, 1998**

No. 11 OF 1998

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I
PRELIMINARY

1. (1) This Ordinance may be called the High Court and Supreme Court Judges (Conditions of Service) Amendment Ordinance, 1998;

Short title
and com-
mencement.

(2) It shall be deemed to have come into force on the 1st day of January, 1996.

CHAPTER II

AMENDMENT OF THE HIGH COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1954

Amendment of
long title.

2. In the long title to the High Court Judges (Conditions of Service) Act, 1954, (hereinafter referred to as the High Court Judges Act), for the words "certain conditions of service", the words "salaries and certain conditions of service" shall be substituted.

28 of 1954.

Amendment of
section 1.

3. In section 1 of the High Court Judges Act, for the brackets and words "(Conditions of Service)", the brackets and words "(Salaries and Conditions of Service)" shall be substituted.

Amendment of
Chapter III.

4. In Chapter III of the High Court Judges Act,—

(a) for the heading "Pensions", the heading "Salaries and Pensions" shall be substituted; and

(b) after the heading as so substituted and before section 14, the following section shall be inserted, namely:—

Salaries of the
Judges.

"13A. (1) There shall be paid to the Chief Justice of a High Court by way of salary thirty thousand rupees per mensem.

(2) There shall be paid to a Judge of a High Court by way of salary twenty-six thousand rupees per mensem."

CHAPTER III

AMENDMENT OF THE SUPREME COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1958

Amendment of
long title.

5. In the long title to the Supreme Court Judges (Conditions of Service) Act, 1958, (hereinafter referred to as the Supreme Court Judges Act), for the words "certain conditions of service", the words "salaries and certain conditions of service" shall be substituted.

41 of 1958.

Amendment of
section 1.

6. In section 1 of the Supreme Court Judges Act, for the brackets and words "(Conditions of Service)", the brackets and words "(Salaries and Conditions of Service)" shall be substituted.

Amendment of
Chapter III.

7. In Chapter III of the Supreme Court Judges Act,—

(a) for the heading "Pensions", the heading "Salaries and Pensions" shall be substituted; and

(b) after the heading as so substituted and before section 13, the following section shall be inserted, namely:—

Salaries of the
Judges.

"12A. (1) There shall be paid to the Chief Justice of India by way of salary thirty-three thousand rupees per mensem.

(2) There shall be paid to a Judge of the Supreme Court by way of salary thirty thousand rupees per mensem."

CHAPTER IV

TRANSITIONAL PROVISION

8. The difference of salary payable to a Judge of a High Court under the High Court Judges Act or a Judge of the Supreme Court under the Supreme Court Judges Act, as amended by this Ordinance, and salary payable to such Judge but for this Ordinance, shall be paid in two instalments, the first instalment being five thousand rupees plus fifty per cent of the balance of such difference to be paid as early as may be practicable, and the second instalment to be paid within such period as may be decided by the Central Government.

Sd/-

K. R. NARAYANAN,
President.

Sd/-

RAGHBIR SINGH,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, 27th August, 1998.

No. RP/47/97/33/96/E.—The following Act of Parliament is re-published
for general information:—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 28th September, 1996/Ashwina 6, 1918 (Saka)

The following Act of Parliament received the assent of the President on the
28th September, 1996 and is hereby published for general information:—

THE FINANCE (No. 2) ACT, 1996

(Act No. 33 of 1996)

(28th September, 1996)

AN ACT

*to give effect to the financial proposals of the Central Government for the
financial year 1996-97.*

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as
follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Finance (No. 2) Act, 1996.

(2) Save as otherwise provided in this Act, sections 2 to 58 and section 88 shall be
deemed to have come into force on the 1st day of April, 1996.

Short title and
commence-
ment.

CHAPTER II

RATES OF INCOME-TAX

Income-tax.

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 1996, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased, in the cases to which Paragraph E, of that Part applies by a surcharge calculated in the manner provided therein.

(2) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding six hundred rupees, in addition to total income, and the total income exceeds,—

(i) in a case to which the said Sub-Paragraph I applies, forty thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, eighteen thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after,—

(i) in a case to which the said Sub-Paragraph I applies, the first forty thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, the first eighteen thousand rupees,

of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased,—

(A) in a case to which the said Sub-Paragraph I applies, by a sum of forty thousand rupees; and

(B) in a case to which the said Sub-Paragraph II applies, by a sum of eighteen thousand rupees,

and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be:

Provided that the amount of income-tax computed in accordance with the provisions of sections 112 and 113 of the Income-tax Act shall be increased in the case of a domestic company by a surcharge as provided in Paragraph E of Part I of the First Schedule:

Provided further that in respect of any income chargeable to tax under section 115B, or in the case of a domestic company having a total income exceeding seventy-five thousand rupees under section 115BB, of the Income-tax Act, the income-tax computed shall be increased by a surcharge calculated at the rate of fifteen per cent. of such income-tax.

(4) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule and shall be increased, in the cases to which the provisions of sub-item (a) of item 2 of that Part apply, by a surcharge calculated in the manner provided therein.

(5) In cases in which tax has to be deducted under sections 194C, 194G, 194I, 194J and 194K of the Income-tax Act, the deduction shall be made at the rates specified in those sections and shall be increased in the case of an assessee, being a domestic company, by a surcharge calculated at the rate of seven-and-a-half per cent. of such deduction.

(6) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased in the case of a buyer, being a domestic company, by a surcharge calculated at the rate of seven-and-a-half per cent. of such collection.

(7) Subject to the provisions of sub-section (8), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax shall be increased, in the cases to which Paragraph E of that Part applies, by a surcharge calculated in the manner provided therein:

Provided that in the cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of income-tax computed in accordance with the provisions of sections 112 and 113 of the Income-tax Act shall be increased in the case of a domestic company by a surcharge as provided in Paragraph E of Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under section 115B, or in the case of a domestic company, under section 115BB of the Income-tax Act, having a total income exceeding seventy-five thousand rupees, the "advance tax" computed under the first proviso shall be increased by a surcharge calculated at the rate of seven-and-a-half per cent. of such "advance tax".

(8) In the cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding six hundred rupees, in addition to total income and the total income exceeds forty thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first forty thousand rupees of the total income but with-

out being liable to tax], only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of forty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be,

"advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income;

(9) For the purposes of this section and the First Schedule,—

(a) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1996, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of the Act;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

Amendment of
section 2.

3. In section 2 of the Income-tax Act, with effect from the 1st day of October, 1996,—

(a) in clause (7A), for the words "Assistant Commissioner" and "Deputy Commissioner", the words "Assistant Commissioner" or "Assistant Director" and "Deputy Commissioner" or "Deputy Director" shall respectively be substituted;

(b) in clause (24), after sub-clause (x), the following sub-clause shall be inserted, namely:—

"(xi) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation.—For the purposes of this clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in the *Explanation* to clause (10D) of section 10;".

4. In section 10 of the Income-tax Act,—

(a) in clause (10A), after sub-clause (ii), the following sub-clause shall be inserted with effect from the 1st day of April, 1997, namely:—

“(iii) any payment in commutation of pension received from a fund under clause (23AAB);”;

(b) in clause (10D), after the words, brackets, figures and letters “other than any sum received under sub-section (3) of section 80DDA”, the following shall be inserted with effect from the 1st day of October, 1996, namely:—

“or under a Keyman insurance policy.

Explanation.—For the purposes of this clause, “Keyman insurance policy” means a life insurance policy taken by a person on the life of another person who is or was the employee of the first mentioned person or is or was connected in any manner whatsoever with the business of the first mentioned person;”;

(c) in clause (15), in sub-clause (iv), after item (i), in the *Explanation*, for clause (e), the following clause shall be substituted with effect from the 1st day of April, 1997, namely:—

“(e) the operation of ships or aircrafts or construction or operation of rail systems;”;

(d) after clause (23AAA), the following clause shall be inserted with effect from the 1st day of April, 1997, namely:—

“(23AAB) any income of a fund, by whatever name called, set up by the Life Insurance Corporation of India on or after the 1st day of August, 1996 under a pension scheme,—

(i) to which contribution is made by any person for the purpose of receiving pension from such fund;

(ii) which is approved by the Controller of Insurance.

Explanation.—For the purposes of this clause, the expression “Controller of Insurance” shall have the meaning assigned to it in clause (5B) of section 2 of the Insurance Act, 1938;”;

(e) after clause (23BBB), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1992, namely:—

“(23BBC) any income of the SAARC Fund for Regional Project set up by Colombo Declaration issued on the 21st day of December, 1991, by the Heads of State or Government of the Member Countries of South Asian Association for Regional Cooperation established on the 8th day of December, 1985 by the Charter of the South Asian Association for Regional Cooperation;”;

(f) after clause (23F), the following clause shall be inserted with effect from the 1st day of April, 1997, namely:—

“(23G) any income by way of dividends, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company from investments made by way of shares or long-term finance in any enterprise carrying on the business of developing, maintaining and operating any infrastructure facility, which fulfils the conditions specified in sub-section (4A) of section 80-IA.

Explanation.— For the purposes of this clause,—

(a) “infrastructure capital company” means such company as has made investments by way of acquiring shares or providing long-term finance to an enterprise carrying on the business of developing, maintaining and operating infrastructure facility;

(b) "infrastructure capital fund" means such fund operating under a trust deed, registered under the provisions of the Registration Act, 1908, established to raise monies by the trustees for investment by way of acquiring shares or providing long-term finance to an enterprise carrying on the business of developing, maintaining and operating infrastructure facility;

16 of 1908.

(c) "infrastructure facility" shall have the meaning assigned to it in clause (ca) of sub-section (12) of section 80-IA;

(d) "long-term finance" shall have the meaning assigned to it in clause (viii) of sub-section (1) of section 36;

(g) for clause (24), the following clause shall be substituted with effect from the 1st day of April, 1997, namely:—

'(24) any income chargeable under the heads "income from house property" and "Income from other sources" of—

(a) a registered union within the meaning of the Trade Unions Act, 1926 formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen;

16 of 1926.

(b) an association of registered unions referred to in sub-clause (a);

Amendment of
section 12A.

5. In section 12A of the Income-tax Act, in clause (a), for the words "whichever is later", the words, figures and letters "whichever is later and such trust or institution is registered under section 12AA" shall be substituted with effect from the 1st day of April, 1997.

Insertion of new
section 12AA.

6. After section 12A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1997, namely:—

Procedure for
registration.

"12AA. (1) The Chief Commissioner or Commissioner, on receipt of an application for registration of a trust or institution made under clause (a) of section 12A, shall—

(a) call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such inquiries as he may deem necessary in this behalf; and

(b) after satisfying himself about the objects of the trust or institution and the genuineness of its activities, he—

(i) shall pass an order in writing registering the trust or institution;

(ii) shall, if he is not so satisfied, pass an order in writing refusing to register the trust or institution,

and a copy of such order shall be sent to the applicant:

Provided that no order under sub-clause (ii) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

(2) Every order granting or refusing registration under clause (b) of sub-section (1) shall be passed before the expiry of six months from the end of the month in which the application was received under clause (a) of section 12A."

Amendment of
section 16.

7. In section 16 of the Income-tax Act, for clause (i), the following clauses shall be substituted with effect from the 1st day of April, 1997, namely:—

'(i) in the case of an assessee whose income from salary, before allowing a deduction under this clause, does not exceed sixty thousand rupees, a deduction of a sum equal to thirty-three and one-third per cent. of the salary or eighteen thousand rupees, whichever is less;

(ia) in any other case, a deduction of a sum equal to thirty-three and one-third per cent. of the salary or fifteen thousand rupees, whichever is less:

Provided that in the case of an assessee, being a woman, whose total income before making any deduction under this clause, does not exceed seventy-five thousand rupees, the provisions of this clause shall have effect as if for the words "fifteen thousand rupees", the words "eighteen thousand rupees" had been substituted.

Explanation.—For the removal of doubts, it is hereby declared that where, in the case of an assessee, salary is due from, or paid or allowed by, more than one employer, the deduction under this clause shall be computed with reference to the aggregate salary due, paid or allowed to the assessee and shall in no case exceed the amount specified under clause (i) or clause (ia), as the case may be.

8. In section 17 of the Income-tax Act, in clause (3), in sub-clause (ii), for the words "interest on such contributions.", the following shall be substituted with effect from the 1st day of October, 1996, namely:—

Amendment of section 17.

"interest on such contributions or any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation.—For the purposes of this sub-clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in clause (10D) of section 10.

9. In section 24 of the Income-tax Act, in sub-section (2), in the proviso:—

Amendment of section 24.

(a) for the words "ten thousand rupees", the words "fifteen thousand rupees" shall be substituted with effect from the 1st day of April, 1997;

(b) after the words, brackets, figures and letters "sub-clause (i) of clause (a) of sub-section (2) of section 23", the words, brackets and figures "or sub-section (3) of section 23" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1995.

10. In section 28 of the Income-tax Act, after clause (v), the following clause shall be inserted with effect from the 1st day of October, 1996, namely:—

Amendment of section 28.

"(vi) any sum, received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation.—For the purposes of this clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in clause (10D) of section 10.

11. In section 32 of the Income-tax Act, with effect from the 1st day of April, 1997,—

Amendment of section 32.

(a) in sub-section (1), after the words "plant or furniture owned", the words "wholly or partly," shall be inserted;

(b) in sub-section (1), after the third proviso, the following proviso shall be inserted, namely:—

"Provided also that the aggregate deduction, in respect of depreciation of buildings, machinery, plant or furniture allowable to the predecessor and the successor in the case of succession, referred to in section 170 or the amalgamating company and the amalgamated company in the case of amalgamation, as the case may be, shall not exceed in any previous year the deduction calculated at the prescribed rates as if the succession or the amalgamation had not taken place, and such deduction shall be apportioned between the predecessor and the successor, or the amalgamating company and the amalgamated company, as the case may be, in the ratio of the number of days for which the assets were used by them."

(c) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Where in the assessment of the assessee full effect cannot be given to any allowance under clause (ii) of sub-section (1) in any previous year owing to there being no profits or gains chargeable for that previous year or owing to

the profits or gains being less than the allowance, then, the allowance or the part of allowance to which effect has not been given (hereinafter referred to as unabsorbed depreciation allowance), as the case may be,—

(i) shall be set off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year;

(ii) if the unabsorbed depreciation allowance cannot be wholly set off under clause (i), the amount not so set off shall be set off from the income under any other head, if any, assessable for that assessment year;

(iii) if the unabsorbed depreciation allowance cannot be wholly set off under clause (i) and clause (ii), the amount of allowance not so set off shall be carried forward to the following assessment year and—

(a) it shall be set off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year;

(b) if the unabsorbed depreciation allowance cannot be wholly so set off, the amount of unabsorbed depreciation allowance not so set off shall be carried forward to the following assessment year not being more than eight assessment years immediately succeeding the assessment year for which the aforesaid allowance was first computed:

Provided that the business or profession for which the allowance was originally computed continued to be carried on by him in the previous year relevant for that assessment year:

Provided further that the time limit of eight assessment years specified in sub-clause (b) shall not apply in the case of a company for the assessment year beginning with the assessment year relevant to the previous year in which the said company has become a sick industrial company under sub-section (1) of section 17 of the Sick Industrial Company (Special Provisions) Act, 1985 and ending with the assessment year relevant to the previous year in which the entire networth of such company becomes equal to or exceeds the accumulated losses.

1 of 1986.

Explanation.—For the purposes of this clause, “networth” shall have the meaning assigned to it in clause (ga) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985.

1 of 1986.

Amendment of
section 35.

12. In section 35 of the Income-tax Act, in sub-section (2AA), for the provisos, the following proviso shall be substituted with effect from the 1st day of October, 1996, namely:—

“Provided that the prescribed authority shall, before granting approval, satisfy itself about the feasibility of carrying out the scientific research and shall submit its report to the Director General in such form as may be prescribed.”

Amendment of
section 35AC.

13. In section 35AC of the Income-tax Act, after sub-section (3) and before the *Explanation*, the following sub-sections shall be inserted with effect from the 1st day of October, 1996, namely:—

“(4) Where an association or institution is approved by the National Committee under sub-section (1), and subsequently that Committee is satisfied that the project or the scheme is not being carried on in accordance with all or any of the conditions subject to which approval was granted, it may, at any time, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association or institution, withdraw the approval.

(5) Where any project or scheme has been notified as an eligible project or scheme under clause (b) of the *Explanation* and subsequently the National Committee is satisfied that the project or the scheme is not being carried out in accordance with all or any of the conditions subject to which such project or scheme was notified, such notification may be withdrawn in the same manner in which it was issued:

Provided that a reasonable opportunity of showing cause against the proposed withdrawal shall be given by the National Committee to the concerned association, institution, public sector company or the local authority, as the case may be."

14. In section 36 of the Income-tax Act, in sub-section (1), in clause (viii),—

Amendment of section 36.

(a) for the words "before making any deduction under this section", the words "before making any deduction under this clause" shall be substituted and shall be deemed to have been substituted;

(b) in the second proviso, for the brackets and words "(excluding the amounts capitalised from reserves)", the words "and of the general reserves" shall be substituted with effect from the 1st day of April, 1997;

(c) in the *Explanation*, after clause (d), the following clause shall be inserted and shall be deemed to have been inserted, namely:—

"(e) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years."

15. In section 40A of the Income-tax Act, in sub-section (3), for the words "ten thousand" wherever they occur, the words "twenty thousand" shall be substituted with effect from the 1st day of April, 1997.

Amendment of section 40A.

16. In section 41 of the Income-tax Act, the *Explanation* occurring below sub-section (1) shall be renumbered as *Explanation 2*, and before *Explanation 2* as so renumbered, the following *Explanation* shall be inserted with effect from the 1st day of April, 1997, namely:—

Amendment of section 41.

Explanation 1.—For the purposes of this sub-section, the expression "loss or expenditure or some benefit in respect of any such trading liability by way of remission or cessation thereof" shall include the remission or cessation of any liability by a unilateral act by the first mentioned person under clause (a) or the successor in business under clause (b) of that sub-section by way of writing off such liability in his accounts."

17. In section 43 of the Income-tax Act, in clause (1), after *Explanation 4*, the following *Explanation* shall be inserted with effect from the 1st day of October, 1996, namely:—

Amendment of section 43.

"Explanation 4A.—Where before the date of acquisition by the assessee (hereinafter referred to as the first mentioned person), the assets were at any time used by any other person (hereinafter referred to as the second mentioned person) for the purposes of his business or profession and depreciation allowance has been claimed in respect of such assets in the case of the second mentioned person and such person acquires on lease, hire or otherwise assets from the first mentioned person, then, notwithstanding anything contained in *Explanation 3*, the actual cost of the transferred assets, in the case of first mentioned person, shall be the same as the written down value of the said assets at the time of transfer thereof by the second mentioned person."

18. In section 43B of the Income-tax Act, with effect from the 1st day of April, 1997,—

Amendment of section 43B.

(a) in clause (d), for the words "governing such loan or borrowing" the words "governing such loan or borrowing; or" shall be substituted;

(b) after clause (d), the following clause shall be inserted, namely:—

"(e) any sum payable by the assessee as interest on any term loan from a scheduled bank in accordance with the terms and conditions of the agreement

governing such loan.”;

(c) after *Explanation 3*, the following *Explanation* shall be inserted, namely:—

“*Explanation 3A*.—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (e) of this section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1996, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.”;

(d) in *Explanation 4*, after clause (a), the following clause shall be inserted, namely:—

“(aa) “scheduled bank” shall have the meaning assigned to it in clause (ii) of the *Explanation* to clause (viii) of sub-section (1) of the section 36;”

Amendment of section 45.

19. In section 45 of the Income-tax Act, in sub-section (1), after the figures and letter “54E,” the figures and letters “54EA, 54EB,” shall be inserted with effect from the 1st day of October, 1996.

Insertion of new sections 54EA and 54EB.

Capital gain on transfer of long-term capital assets not to be charged in the case of investment in specified bonds or debentures.

20. After section 54E of the Income-tax Act, the following sections shall be inserted with effect from the 1st day of October, 1996, namely:—

“54EA. (1) Where the capital gain arises from the transfer of a long-term capital asset (the capital asset so transferred being hereafter in this section referred to as the original asset) and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of the net consideration in any of the bonds, debentures or units of any mutual fund referred to in clause (23D) of section 10 specified by the Board in this behalf by notification in the Official Gazette (such assets hereafter in this section referred to as the specified bonds or debentures), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(a) if the cost of the specified bonds or debentures is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45;

(b) if the cost of the specified bonds or debentures is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the specified bonds or debentures bears to the net consideration shall not be charged under section 45.

(2) Where the specified bonds or debentures are transferred or converted (otherwise than by transfer) into money at any time within a period of three years from the date of their acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such specified bonds or debentures as provided in clause (a) or clause (b) of sub-section (1) shall be deemed to be the income chargeable under the head “capital gains” relating to long-term capital assets of the previous year in which the specified bonds or debentures are transferred or converted (otherwise than by transfer) into money.

Explanation.—In a case where the original asset is transferred and the assessee invests the whole or any part of the net consideration in respect of the original asset in any specified bonds or debentures and such assessee takes any loan or advance on the security of such specified bonds or debentures, he shall be deemed to have converted (otherwise than by transfer) such specified bonds or debentures into money on the date on which such loan or advance is taken.

(3) Where the cost of the specified bonds or debentures has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1), a rebate with reference to such cost shall not be allowed under section 88.

Explanation.— For the purposes of this section,—

(a) “cost”, in relation to any specified bonds or debentures, means the amount invested in such specified bonds or debentures out of the net consideration received or accruing as a result of the transfer of the original asset;

(b) “net consideration”, in relation to the transfer of a capital asset, means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by the expenditure incurred wholly and exclusively in connection with such transfer.

54EB. (1) Where the capital gain arises from the transfer of a long-term capital asset (the capital asset so transferred being hereafter in this section referred to as the original asset), and the assessee has, at any time within a period of six months after the date of such transfer invested the whole or any part of capital gains, in any of the assets specified by the Board in this behalf by notification in the Official Gazette (such assets hereafter in this section referred to as the long-term specified assets), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

Capital gain on transfer of long-term capital assets not to be charged in certain cases.

(a) if the cost of the long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;

(b) if the cost of the long-term specified asset is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45.

Explanation.— “Cost”, in relation to any long-term specified asset, means the amount invested in such specified asset out of capital gains received or accruing as a result of the transfer of the original asset.

(2) Where the long-term specified asset is transferred or converted (otherwise than by transfer) into money at any time within a period of seven years from the date of its acquisition, the amount of capital gains arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such long-term specified asset as provided in clause (a), or as the case may be, clause (b) of sub-section (1) shall be deemed to be the income chargeable under the head “Capital gains” relating to long-term capital assets of the previous year in which the long-term specified asset is transferred or converted (otherwise than by transfer) into money.

Explanation.— In a case where the original asset is transferred and the assessee invests the whole or any part of the capital gain received or accrued as a result of transfer of the original asset in any long-term specified asset and such assessee takes any loan or advance on the security of such specified asset, he shall be deemed to have converted (otherwise than by transfer) such specified asset into money on the date on which such loan or advance is taken.

(3) Where the cost of the long-term specified asset has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1), a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88.

21. In section 56, in sub-section (2), after clause (iii), the following clause shall be inserted with effect from the 1st day of October, 1996, namely:—

Amendment of section 56.

(iv) income referred to in sub-clause (xi) of clause (24) of section 2, if such income is not chargeable to income-tax under the head “Profits and gains of business or profession” or under the head “Salaries”.

Omission of
section 80CC.

22. Section 80CC of the Income-tax Act shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1993.

Insertion of
new section
80CCC.
Deduction in
respect of
contribution to
certain pension
funds.

23. After section 80CCB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1997, namely:—

“80CCC. (1) Where an assessee being an individual has in the previous year paid or deposited any amount out of his income chargeable to tax to effect or keep in force a contract for any annuity plan of Life Insurance Corporation of India for receiving pension from the fund referred to in clause (23AAB) of section 10, he shall, in accordance with, and subject to, the provisions of this section, be allowed a deduction in the computation of his total income, of the whole of the amount paid or deposited (excluding interest or bonus accrued or credited to the assessee's account, if any) as does not exceed the amount of ten thousand rupees in the previous year.

(2) Where any amount standing to the credit of the assessee in a fund, referred to in sub-section (1) in respect of which a deduction has been allowed under sub-section (1), together with the interest or bonus accrued or credited to the assessee's account, if any, is received by the assessee or his nominee—

(a) on account of the surrender of the annuity plan whether in whole or in part, in any previous year, or

(b) as pension received from the annuity plan,

an amount equal to the whole of the amount referred to in clause (a) or clause (b) shall be deemed to be the income of the assessee or his nominee, as the case may be, in that previous year in which such withdrawal is made or, as the case may be, pension is received, and shall accordingly be chargeable to tax as income of that previous year.

(3) Where any amount paid or deposited by the assessee has been taken into account for the purposes of this section, a rebate with reference to such amount shall not be allowed under section 88.”

Amendment of
section 80D.

24. In section 80D of the Income-tax Act, in sub-section (1), for the words “six thousand rupees”, wherever they occur, the words “ten thousand rupees” shall be substituted with effect from the 1st day of April, 1997.

Insertion of new
section 80DDB.

25. After section 80DDA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1997, namely:—

Deduction in re-
spect of medical
treatment, etc.

“80DDB. Where an assessee who is resident in India has, during the previous year, incurred any expenditure for the medical treatment of such disease or ailment as may be specified in the rules made in this behalf by the Board—

(a) for himself or a dependant relative, in case the assessee is an individual; or

(b) for any member of a Hindu undivided family, in case the assessee is a Hindu undivided family,

the assessee shall be allowed a deduction of a sum of fifteen thousand rupees in respect of that previous year in which such expenditure was incurred:

Provided that no such deduction shall be allowed unless the assessee furnishes a certificate in such form and from such authority as may be prescribed.

Explanation.— For the purposes of this section, “dependant” means a person who is not dependant for his support or maintenance on any person other than the assessee.”

Amendment of
section 80G.

26. In section 80G of the Income-tax Act, with effect from the 1st day of April, 1997,—

(a) in sub-section (1), in clause (i), after the words, brackets, figures and letter “sub-clause (iiih) or”, the words, brackets, figures and letters “sub-clause (iiha) or sub-clause (iihb) or sub-clause (iihc) or” shall be inserted;

(b) in sub-section (2), in clause (a), after sub-clause (iih), the following sub-clauses shall be inserted, namely:—

(iiiha) the National Blood Transfusion Council or to any State Blood Transfusion Council which has its sole object the control, supervision, regulation or encouragement in India of the services related to operation and requirements of blood banks.

Explanation.— For the purposes of this sub-clause,—

(a) "National Blood Transfusion Council" means a society registered under the Societies Registration Act, 1860 and has an officer not below the rank of an Additional Secretary to the Government of India dealing with the AIDS Control Project as its Chairman, by whatever name called;

21 of 1860.

(b) "State Blood Transfusion Council" means a society registered, in consultation with the National Blood Transfusion Council, under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India and has Secretary to the Government of that State dealing with the Department of Health, as its Chairman, by whatever name called; or

21 of 1860.

(iihb) any fund set up by a State Government to provide medical relief to the poor; or

(iihc) the Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants; or.

27. In section 80GG of the Income-tax Act, for the words "one thousand rupees", the words "two thousand rupees" shall be substituted with effect from the 1st day of April, 1997.

Amendment of section 80GG.

28. In section 80-IA of the Income-tax Act, with effect from the 1st day of April, 1997,—

Amendment of section 80-IA.

(a) in sub-section (1), after the words "infrastructure facility", the words "or scientific and industrial research and development" shall be inserted;

(b) after sub-section (4A), the following sub-section shall be inserted, namely:—

"(4B) This section applies to any company registered in India carrying on scientific and industrial research and development which fulfills all the following conditions, namely:—

(i) the company has the main object of scientific and industrial research and development;

(ii) the company is for the time being approved by the prescribed authority at any time before the 1st day of April, 1998."

(c) in sub-section (5), after clause (ia), the following clause shall be inserted, namely:—

"(ib) in the case of a company referred to in sub-section (4B), hundred per cent. of the profits and gains derived from such business;"

(d) in sub-section (6), after clause (iv), the following clause shall be inserted, namely:—

"(v) five in the case of an assessee, being a company referred to in sub-

section (4B), deriving profits and gains from scientific and industrial research and development.”;

(e) in sub-section (12),—

(i) in clause (c), after sub-clause (2), the following sub-clause shall be inserted, namely:—

“(3) in the case of a company carrying on scientific and industrial research and development, means the assessment year relevant to the previous year in which the company is approved by the prescribed authority for the purposes of sub-section (4B);”;

(ii) for clause (ca), the following clause shall be substituted, namely:—

“(ca) “infrastructure facility” means—

(i) a road, highway, bridge, airport, port, rail system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette;

(ii) a water supply project, irrigation project, sanitation and sewerage system;”

Omission of
section 80J.

29. Section 80J of the Income-tax Act shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1989.

Amendment of
section 80L.

30. In section 80L of the Income-tax Act, in sub-section (1) with effect from the 1st day of April, 1997,—

(a) in clauses (1) and (2), for the words “thirteen thousand”, the words “twelve thousand” shall be substituted;

(b) after clause (2), the following proviso shall be inserted, namely:—

“Provided that where any income referred in clause (iv), clause (v) or clause (va) remains unallowed after the deduction under the foregoing provision of this section, there shall be allowed in computing the total income of the assessee, an additional deduction of an amount equal to so much of such income as has remained unallowed; so, however, that the amount of such additional deduction shall not exceed three thousand rupees.”

Amendment of
section 80R.

31. In section 80R of the Income-tax Act, for the portion beginning with the words “equal to” and ending with the words “whichever is higher”, the following shall be substituted with effect from the 1st day of April, 1997, namely:—

“equal to seventy-five per cent. of such remuneration, as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year or where the Chief Commissioner or Commissioner is satisfied (for reasons to be recorded in writing) that the assessee is, for reasons beyond his control unable to do so within the said period of six months, within such further period as the Chief Commissioner or Commissioner may allow in this behalf:

Provided that no deduction under this section shall be allowed unless the assessee furnishes a certificate, in the prescribed form, along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.”

32. In section 80RR of the Income-tax Act, for the portion beginning with the words "equal to" and ending with the words "whichever is higher", the following shall be substituted with effect from the 1st day of April, 1997, namely:—

Amendment of section 80RR.

"equal to seventy-five per cent. of such income, as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year or where the Chief Commissioner or Commissioner is satisfied (for reasons to be recorded in writing) that the assessee is, for reasons beyond his control unable to do so within the said period of six months, within such further period as the Chief Commissioner or Commissioner may allow in this behalf:

Provided that no deduction under this section shall be allowed unless the assessee furnishes a certificate, in the prescribed form, along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of this section."

33. In section 80RRA of the Income-tax Act, in sub-section (1), for the portion beginning with the words "equal to" and ending with the words "whichever is higher", the following shall be substituted with effect from the 1st day of April, 1997, namely:—

Amendment of section 80RRA.

"equal to seventy-five per cent. of such remuneration, as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year or where the Chief Commissioner or Commissioner is satisfied (for reasons to be recorded in writing) that the assessee is, for reasons beyond his control unable to do so within the said period of six months, within such further period as the Chief Commissioner or Commissioner may allow in this behalf:

Provided that no deduction under this sub-section shall be allowed unless the assessee furnishes a certificate, in the prescribed form, along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of this section."

34. In section 88 of the Income-tax Act, with effect from the 1st day of April, 1997, —

Amendment of section 88.

(a) in sub-section (2), after clause (xv), the following clauses shall be inserted, namely:—

(xvi) as subscription to equity shares or debentures forming part of any eligible issue of capital approved by the Board on an application made by a public company in the prescribed form:

Provided that where a deduction is claimed and allowed under this clause with reference to the cost of any equity shares or debentures, the cost of such shares or debentures shall not be taken into account for the purposes of sections 54EA and 54EB.

Explanation.—For the purposes of this clause,—

(i) "eligible issue of capital" means an issue made by a public company formed and registered in India and the issue is wholly and exclusively for the purposes of developing, maintaining and operating an infrastructure facility or for generating, or for generating and distributing, power;

(ii) "infrastructure facility" shall have the meaning assigned to it in clause (ca) of sub-section (12) of section 80-IA;

(iii) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956;

1 of 1956.

(xvii) as subscription to any units of any mutual fund referred to in clause (23D) of section 10 and approved by the Board on an application made by such mutual fund in the prescribed form:

Provided that where a deduction is claimed and allowed under this clause with reference to the cost of units, the cost of such units shall not be taken into account for the purposes of sections 54EA and 54EB:

Provided further that this clause shall apply if the amount of subscription to such units is subscribed only in the eligible issue of capital of any company.

Explanation.—For the purposes of this clause "eligible issue of capital" means an issue referred to in clause (i) of *Explanation* to clause (xvi) of sub-section (2) of section 88;

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

"(5A) Where the aggregate of any sums specified in clause (i) to clause (xv) of sub-section (2) exceeds an amount of sixty thousand rupees, a deduction under sub-section (1) shall be allowed with reference to so much of the aggregate as does not exceed an amount of sixty thousand rupees:

Provided that, in the case of an individual referred to in the proviso to sub-section (1), the provisions of this sub-section shall have effect as if for the words "sixty thousand rupees", the words "seventy thousand rupees" had been substituted."

(c) in sub-section (6), in clause (ii), for the words "twelve thousand rupees", the words "fourteen thousand rupees" shall be substituted;

(d) after sub-section (7), the following sub-section shall be inserted, namely:—

"(7A) If any equity shares or debentures, with reference to the cost of which a deduction is allowed under sub-section (1), are sold or otherwise transferred by the assessee to any person at any time within a period of three years from the date of their acquisition, the aggregate amount of the deductions of income-tax so allowed in respect of such equity shares or debentures in the previous year or years preceding the previous year in which such sale or transfer has taken place shall be deemed to be tax payable by the assessee for the assessment year relevant to such previous year and shall be added to the amount of income-tax on the total income of the assessee with which he is chargeable for such assessment year.

Explanation.—A person shall be treated as having acquired any shares or debentures on the date on which his name is entered in relation to those shares or debentures in the register of members or of debenture-holders, as the case may be, of the public company."

Omission of
section 88A.

35. Section 88A of the Income-tax Act shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1994.

Amendment of
section 88B.

36. In section 88B of the Income-tax Act, for the words "one hundred thousand rupees", the words "one hundred and twenty thousand rupees" shall be substituted with effect from the 1st day of April, 1997.

37. In section 112 of the Income-tax Act, in sub-section (1) with effect from the 1st day of April, 1997, —

Amendment of section 112.

(a) in clause (b), in sub clause (ii), for the words "thirty per cent.", the words "twenty per cent." shall be substituted;

(b) in clause (d), in sub-clause (ii), for the words "thirty per cent.", the words "twenty per cent." shall be substituted.

38. In section 115AC of the Income-tax Act, in sub-section (1), in clause (a), after the words "specify in this behalf", the words "or on bonds or shares of a public sector company, sold by the Government" shall be inserted with effect from the 1st day of October, 1996.

Amendment of section 115AC.

39. After section 115J of the Income-tax Act, the following section shall be inserted with effect from the 1st day April, 1997, namely:—

Insertion of new section 115JA.

'115JA. (1) Notwithstanding anything contained in any other provisions of this Act, where in the case of an assessee, being a company, the total income, as computed under this Act in respect of any previous year relevant to the assessment year commencing on or after the 1st day April, 1997 (hereafter in this section referred to as the relevant previous year) is less than thirty per cent. of its book profit, the total income of such assessee chargeable to tax for the relevant previous year shall be deemed to be an amount equal to thirty per cent. of such book profit.

Deemed income relating to certain companies.

(2) Every assessee, being a company, shall, for the purposes of this section prepare its profit and loss account for the relevant previous year in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956:

1 of 1956.

Provided that while preparing profit and loss account, the depreciation shall be calculated on the same method and rates which have been adopted for calculating the depreciation for the purpose of preparing the profit and loss account laid before the company at its annual general meeting in accordance with the provisions of section 210 of the Companies Act, 1956:

1 of 1956.

Provided further that where a company has adopted or adopts the financial year under the Companies Act, 1956 which is different from the previous year under the Act, the method and rates for calculation of depreciation shall correspond to the method and rates which have been adopted for calculating the depreciation for such financial year or part of such financial year falling within the relevant previous year.

1 of 1956.

Explanation.—For the purposes of this section, "book profit" means the net profit as shown in the profit and loss account for the relevant previous year prepared under sub-section (2), as increased by—

(a) the amount of income-tax paid or payable, and the provision therefor; or

(b) the amounts carried to any reserves by whatever name called; or

(c) the amount or amounts set aside to provisions made for meeting liabilities, other than ascertained liabilities; or

(d) the amount by way of provision for losses of subsidiary companies; or

(e) the amount or amounts of dividends paid or proposed; or

(f) the amount or amounts of expenditure relatable to any income to which any of the provisions of Chapter III applies;

if any amount referred to in clauses (a) to (f) is debited to the profit and loss account, and as reduced by,—

(i) the amount withdrawn from any reserves or provisions if any such amount is credited to the profit and loss account:

Provided that, where this section is applicable to an assessee in any previous year (including the relevant previous year), the amount withdrawn from reserves created or provisions made in a previous year relevant to the assessment year commencing on or after the 1st day of April, 1997 shall not be reduced from the book profit unless the book profit of such year has been increased by those reserves or provisions (out of which the said amount was withdrawn) under this *Explanation*; or

(ii) the amount of income to which any of the provisions of Chapter III applies, if any such amount is credited to the profit and loss account; or

(iii) the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of account; or

Explanation.—For the purposes of this clause, the loss shall not include depreciation.

(iv) the amount of profits derived by an industrial undertaking from the business of generation or generation and distribution of power; or

(v) the amount of profits derived by an industrial undertaking located in an industrially backward State or district as referred to in sub-clause (b) or sub-clause (c) of clause (iv) of sub-section (2) of section 80-IA, for the assessment years such industrial undertaking is eligible to claim a deduction of hundred per cent. of the profits and gains under sub-section (5) of section 80-IA; or

(vi) the amount of profits derived by an industrial undertaking from the business of developing, maintaining and operating any infrastructure facility as defined under sub-section (12) of section 80-IA, and subject to fulfilling the conditions laid down in sub-section (4A) of section 80-IA; or

(vii) the amount of profits of a sick industrial company for the assessment year commencing from the assessment year relevant to the previous year in which the said company has become a sick industrial company under sub-section (1) of section 17 of the Sick Industrial Companies (Special Provisions) Act, 1985 and ending with the assessment year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

1 of 1986.

Explanation.—For the purposes of this clause, “net worth” shall have the meaning assigned to it in clause (ga) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985.

1 of 1986.

(3) Nothing contained in sub-section (1) shall affect the determination of the amounts in relation to the relevant previous year to be carried forward to the subsequent year or years under the provisions of sub-section (2) of section 32 or sub-section (3) of section 32A or clause (ii) of sub-section (1) of section 72 or section 73 or section 74 or sub-section (3) of section 74A.

(4) Save as otherwise provided in this section, all other provisions of this Act shall apply to every assessee, being a company, mentioned in this section.

Amendment of
section 115K.

1997,—

40. In section 115K of the Income-tax Act, with effect from the 1st day of April,

(a) for the words “forty-seven thousand rupees”, wherever they occur, the words “forty-nine thousand three hundred and thirty rupees” shall be substituted;

(b) for the words “six lakh rupees”, at both the places where they occur, the words “seven lakh rupees” shall be substituted.

41. In section 120 of the Income-tax Act, in sub-section (4), in clause (b), for the words "a Deputy Commissioner" and "such Deputy Commissioner", the words "a Deputy Commissioner or a Deputy Director" and "such Deputy Commissioner or Deputy Director" shall respectively be substituted with effect from the 1st day of October, 1996.

Amendment of section 120.

42. In section 139 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1997,—

Amendment of section 139.

(a) the *Explanation* shall be renumbered as *Explanation 1* and in the *Explanation 1* as so renumbered, in clause (b), for sub-clause (i), the following sub-clause shall be substituted, namely:—

"(i) in a case where the accounts of the assessee are required under this Act or any other law to be audited or where the report of an accountant is required to be furnished under section 80HHC or section 80HHD or where the prescribed certificate is required to be furnished under section 80R or section 80RR or sub-section (1) of section 80RRA, or in the case of a co-operative society or in the case of a working partner of a firm whose accounts are required under this Act or any other law to be audited, the 31st day of October of the assessment year;"

(b) after *Explanation 1* as so renumbered, the following *Explanation* shall be inserted, namely:—

Explanation 2.—For the purposes of sub-clause (i) of clause (b) of *Explanation 1*, the expression "working partner" shall have the meaning assigned to it in *Explanation 4* of clause (b) of section 40.

43. In section 148 of the Income-tax Act, in sub-section (1), the words "not being less than thirty days," shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1989.

Amendment of section 148.

44. In section 153 of the Income-tax Act, in *Explanation 1*, in clause (iii), for the words "the date on which the assessee furnishes", the words "the last date on which the assessee is required to furnish" shall be substituted with effect from the 1st day of April, 1997.

Amendment of section 153.

45. In section 158B of the Income-tax Act, in clause (a), for the words "period of ten previous years", the words "previous years relevant to ten assessment years" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 1995.

Amendment of section 158B.

46. In section 158BB of the Income-tax Act, in sub-section (1), in the *Explanation*, for clause (b), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 1995, namely:—

Amendment of section 158BB.

"(b) of a firm, returned income and total income assessed for each of the previous years falling within the block period shall be the income determined before allowing deduction of salary, interest, commission, bonus or remuneration by whatever name called:

Provided that undisclosed income of the firm so determined shall not be chargeable to tax in the hands of the partners, whether on allocation or on account of enhancement."

47. In section 158BE of the Income-tax Act, after sub-section (2), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 1995, namely:—

Amendment of section 158BE.

Explanation.—In computing the period of limitation for the purposes of this section, the period—

(i) during which the assessment proceeding is stayed by an order or injunction of any court, or

(ii) commencing from the day on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142

and ending on the day on which the assessee is required to furnish a report of such audit under that sub-section,
shall be excluded."

Amendment of
section 158BG.

48. In section 158BG of the Income-tax Act, for the proviso, the following proviso shall be substituted with effect from the 1st day of October, 1996, namely:—

"Provided that no such order shall be passed without the previous approval of the Commissioner or Director, as the case may be."

Amendment of
section 194A.

49. In section 194A of the Income-tax Act, in sub-section (3), in clause (i), for the proviso, the following proviso shall be substituted with effect from the 1st day of October, 1996, namely:—

"Provided that in respect of the income credited or paid in respect of—

(a) time deposits with a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act); or 10 of 1949.

(b) time deposits with a co-operative society engaged in carrying on the business of banking;

(c) deposits with a public company which is formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is for the time being approved by the Central Government for the purpose of clause (viii) of sub-section (1) of section 36,

the provisions of this clause shall have effect as if for the words "two thousand five hundred rupees", the words "ten thousand rupees" had been substituted and the aforesaid amount shall be computed with reference to the income credited or paid by a branch of the banking company or the co-operative society or the public company, as the case may be;"

Amendment of
section 199.

50. In section 199 of the Income-tax Act, with effect from the 1st day of April, 1997,—

(i) for the words "owner of the security", the words "owner of the security, or depositor or owner of property or of unit-holder" shall be substituted;

(ii) in the first proviso, for the word "owner", the words "owner or depositor or unit-holder" shall be substituted;

(iii) for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that where any property, deposit, security, unit or share is owned jointly by two or more persons not constituting a partnership, the payment shall be deemed to have been made on behalf of, and credit shall be given to, each such person in the same proportion in which rent, interest on deposit or on security or income in respect of unit or dividend on share is assessable as his income."

Omission of
sections 206A
and 206B.

51. Sections 206A and 206B of the Income-tax Act shall be omitted with effect from the 1st day of October, 1996.

52. In section 206C of the Income-tax Act, in sub-section (1), for the Table, the following Table shall be substituted with effect from the 1st day of October, 1996, namely:—

Amendment of section 206C.

"TABLE

S.No.	Nature of Goods	Percentage
(1)	(2)	(3)
(i)	Alcoholic liquor for human consumption (other than Indian-made foreign liquor) and tendu leaves	Ten per cent.
(ii)	Timber obtained under a forest lease	Fifteen per cent.
(iii)	Timber obtained by any mode other than under a forest lease	Five per cent.
(iv)	Any other forest produce not being timber or tendu leaves.	Fifteen per cent."

53. In section 208 of the Income-tax Act, for the words "one thousand five hundred rupees", the words "five thousand rupees" shall be substituted with effect from the 1st day of October, 1996.

Amendment of section 208.

54. In section 234C of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1997,—

Amendment of section 234C.

(a) in the first proviso, for the words "instalment of advance tax which is immediately due or where no such instalment is so due", the words "remaining instalments of advance tax which are due or where no such instalments are due" shall be substituted;

(b) the second proviso shall be omitted.

55. In section 272A of the Income-tax Act, in sub-section (2), in clause (c), the words, figures and letters "or section 206A or section 206B" shall be omitted with effect from the 1st day of October, 1996.

Amendment of section 272A.

Wealth-tax

27 of 1957.

56. In section 2 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), in clause (ea), for sub-clause (i), the following sub-clause shall be substituted with effect from the 1st day of April, 1997, namely:—

Amendment of section 2.

(i) any building or land appurtenant thereto (hereinafter referred to as "house"), whether used for residential or commercial purposes or for the purpose of maintaining a guest-house or otherwise including a farmhouse situated within twenty-five kilometers from local limits of any municipality (whether known as municipality, municipal corporation or by any other name) or a cantonment board, but does not include—

(1) a house meant exclusively for residential purposes and which is allotted by a company to an employee or an officer or director who is in whole-time employment, having a gross annual salary of less than two lakh rupees;

(2) any house for residential or commercial purposes which forms part of stock-in-trade;

(3) any house which the assessee may occupy for the purposes of any business or profession carried on by him;

57. In section 4 of the Wealth-tax Act, with effect from the 1st day of April, 1997, for sub-section (7), the following sub-sections shall be substituted, namely:—

Amendment of section 4.

"(7) Where the assessee is a member of a co-operative society, company or other association of persons and a building or part thereof is allotted or leased to him under a house building scheme of the society, company or association, as the

case may be, the assessee shall, notwithstanding anything contained in this Act or any other law for the time being in force, be deemed to be the owner of such building or part and the value of such building or part shall be included in computing the net wealth of the assessee; and, in determining the value of such building or part, the value of any outstanding instalments of the amount payable under such scheme by the assessee to the society, company or association towards the cost of such building or part and the land appurtenant thereto shall, whether the amount so payable is described as such or in any other manner in such scheme, be deducted as a debt owed by him in relation to such building or part.

(8) A person—

(a) who is allowed to take or retain possession of any building or part thereof in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882;

4 of 1882.

(b) who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or part thereof by virtue of any such transaction as is referred to in clause (f) of section 269UA of the Income-tax Act,

shall be deemed to be the owner of that building or part thereof and the value of such building or part shall be included in computing the net wealth of such person.”

Amendment of section 21A.

58. In section 21A of the Wealth-tax Act, for the words “Where any property is held”, the words, brackets and figures “Notwithstanding anything contained in clause (i) of section 5, where any property is held” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1993.

CHAPTER IV

INDIRECT TAXES

Customs

Amendment of section 15.

59. In the Customs Act, 1962 (hereinafter referred to as the Customs Act), in section 15, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

52 of 1962.

“Provided that if a bill of entry has been presented before the date of entry inwards of the vessel or the arrival of the aircraft by which the goods are imported, the bill of entry shall be deemed to have been presented on the date of such entry inwards or the arrival, as the case may be.”

Amendment of section 27.

60. In section 27 of the Customs Act, in sub-section (1), after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that in the case of goods which are exempt from payment of duty by a special order issued under sub-section (2) of section 25, the limitation of one year or six months, as the case may be, shall be computed from the date of issue of such order.”

Amendment of section 28AA.

61. In section 28AA of the Customs Act, in the opening paragraph, for the words “Where a person”, the words, figures and letters “Subject to the provisions contained in section 28AB, where a person” shall be substituted.

Insertion of new section 28AB.

62. After section 28AA of the Customs Act, the following section shall be inserted, namely:—

Interest on delayed payment of duty in special cases.

“28AB, (1) Where any duty has not been levied or has been short levied or erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty as determined under sub-section (2) of section 28, shall, in addition to the duty, be liable to pay interest at such rate not below ten per cent. and not exceeding thirty per cent. per annum, as is for the time being fixed by the Board, from the first day of the month succeeding the month in which the duty ought to have been paid under this Act, or from the date of such

erroneous refund, as the case may be, but for the provisions contained in sub-section (2) of section 28, till the date of payment of such duty.

(2) For the removal of doubts, it is hereby declared that the provisions of sub-section (1) shall not apply to cases where the duty became payable before the date on which the Finance (No. 2) Bill, 1996 receives the assent of the President.

Explanation 1.—Where the duty determined to be payable is reduced by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest shall be payable on such reduced amount of duty.

Explanation 2.—Where the duty determined to be payable is increased or further increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest shall be payable on such increased or further increased amount of duty.”

63. In section 46 of the Customs Act, in sub-section (3), for the second proviso, the following proviso shall be substituted, namely:—

Amendment of section 46.

“Provided further that a bill of entry may be presented even before the delivery of such manifest if the vessel or the aircraft by which the goods have been shipped for importation into India is expected to arrive within thirty days from the date of such presentation.”

64. After section 114 of the Customs Act, the following section shall be inserted, namely:—

Insertion of new section 114A.

“114A. Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has not been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (2) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:

Penalty for short-levy or non-levy of duty in certain cases.

Provided that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

Provided further that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.”

65. In section 129 of the Customs Act, for sub-section (3), the following sub-section shall be substituted, namely:—

Amendment of section 129.

“(3) The Central Government shall appoint—

(a) a person who is or has been a Judge of a High Court; or

(b) one of the members of the Appellate Tribunal,

to be the President thereof.”

66. In section 129C of the Customs Act, in sub-section (4), for the words “one lakh rupees”, the words “ten lakh rupees” shall be substituted.

Amendment of section 129C.

67. The Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act) shall be amended in the manner specified in the Second Schedule.

Amendment of Act 51 of 1975.

68. (1) In the case of goods mentioned in the First Schedule to the Customs Tariff Act, or in that Schedule, as amended from time to time, there shall be levied and collected as a special duty of customs, an amount equal to two per cent. of the value of the goods as determined in accordance with the provisions of section 14 of the Customs Act.

Special duties of customs.

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 1999, and upon such cesser, section 6 of the General Clauses Act, 1897 shall apply as if the said sub-section had been repealed by the Central Act.

(3) The special duties of customs referred to in sub-section (1) shall be in addition to any duties of customs chargeable on such goods under the Customs Act or any other law for the time being in force.

(4) The provisions of the Customs Act and the rules and regulations made thereunder including those relating to refunds and exemptions from duties shall, as far as may be, apply in relation to the levy and collection of the special duties of customs leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

Excise

Amendment of long title.

69. In the Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act), in the long title, the words "and to salt" shall be omitted. 1 of 1944.

Amendment of preamble.

70. In the preamble to the Central Excises Act, the words "and to salt" shall be omitted.

Amendment of section 1.

71. In section 1 of the Central Excises Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) This Act may be called the Central Excise Act, 1944."

Amendment of section 2.

72. In section 2 of the Central Excises Act, clauses (i) and (j) shall be omitted.

Amendment of section 3.

73. In section 3 of the Central Excises Act, in sub-section (1), for the words "other than salt which are produced or manufactured in India and a duty on salt manufactured in, or imported by land into, any part of India", the words "which are produced or manufactured in India" shall be substituted.

Amendment of section 4.

74. In section 4 of the Central Excises Act,—

(a) in sub-section (1), in clause (a), in the proviso, after clause (i), the following clause shall be inserted, namely:—

"(ia) where the price at which such goods are ordinarily sold by the assessee is different for different places of removal, each such price shall, subject to the existence of other circumstances specified in clause (a), be deemed to be the normal price of such goods in relation to each such place of removal;"

(b) in sub-section (4),—

(i) in clause (b),—

(A) in sub-clause (i), the word "or" occurring at the end shall be omitted;

(B) after sub-clause (ii), the following sub-clause shall be inserted, namely:—

"(iii) a depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold after their clearance from the factory and";

(ii) after clause (b), the following clause shall be inserted, namely:—

"(ba) "time of removal", in respect of goods removed from the place of removal referred to in sub-clause (iii) of clause (b), shall be deemed to be the time at which such goods are cleared from the factory."

Amendment of section 11AA.

75. In section 11AA of the Central Excises Act, in the opening paragraph, for the words "Where a person", the words, figures and letters "Subject to the provisions contained in section 11AB, where a person" shall be substituted.

Insertion of new sections 11AB and 11AC.

76. After section 11AA of the Central Excises Act, the following sections shall be inserted, namely:—

Interest on delayed payment of duty.

"11AB. (1) Where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of duty, the person liable to pay duty as determined under sub-section (2) of section

11A shall, in addition to the duty, be liable to pay interest at such rate not below ten per cent. and not exceeding thirty per cent. per annum, as is for the time being fixed by the Board, from the first day of the month succeeding the month in which the duty ought to have been paid under this Act or the rules made thereunder or from the date of such erroneous refund, as the case may be, but for the provisions contained in sub-section (2) of section 11A, till the date of payment of such duty.

(2) For the removal of doubts, it is hereby declared that the provisions of sub-section (1) shall not apply to cases where the duty became payable before the date on which the Finance (No. 2) Bill, 1996 receives the assent of the President.

Explanation 1.—Where the duty determined to be payable is reduced by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest shall be payable on such reduced amount of duty.

Explanation 2.—Where the duty determined to be payable is increased or further increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest shall be payable on such increased or further increased amount of duty.

11AC. Where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded by reasons of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (2) of section 11A, shall also be liable to pay a penalty equal to the duty so determined:

Provided that where the duty determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty as reduced or increased, as the case may be, shall be taken into account."

77. In section 11B of the Central Excises Act, in the *Explanation*, in clause (B), after sub-clause (e), the following sub-clause shall be inserted, namely:—

"(ea) in the case of goods which are exempt from payment of duty by a special order issued under sub-section (2) of section 5A, the date of issue of such order;"

78. In section 12 of the Central Excises Act, for the words and figures "Sea Customs Act, 1878", the words and figures "Customs Act, 1962" shall be substituted.

79. Chapter V of the Central Excises Act shall be omitted.

80. In section 35D of the Central Excises Act, in sub-section (3), for the words "one lakh rupees", the words "ten lakh rupees" shall be substituted.

81. In the Finance Act, 1985,—

(a) sections 44 and 49 shall be omitted;

(b) Fifth Schedule shall be omitted.

82. The Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act) shall be amended in the manner specified in the Third Schedule.

83. The Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act) shall be amended in the manner specified in the Fourth Schedule.

84. In the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978,—

(a) in section 3, in sub-section (1), for the words "twenty per cent.", the words "fifteen per cent." shall be substituted;

(b) the Schedule shall be amended in the manner specified in the Fifth Schedule.

Penalty for short-levy or non-levy, of duty, in certain cases.

Amendment of section 11B.

Amendment of section 12.

Omission of Chapter V.

Amendment of section 35D.

Amendment of Act 32 of 1985.

Amendment of Act 5 of 1986.

Amendment of Act 58 of 1957.

Amendment of Act 40 of 1978.

CHAPTER V

SERVICE TAX

Amendment of
Act 32 of 1994.

85. In the Finance Act, 1994, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(1) in section 65,—

(a) clause (1) shall be renumbered as clause (1B) and before the clause as so renumbered, the following clauses shall be inserted, namely:—

“(1) “advertisement” includes any notice, circular, label, wrapper, document, hoarding or any other audio or visual representation made by means of light, sound, smoke or gas;

(1A) “advertising agency” means any commercial concern engaged in providing any service connected with the making, preparation, display or exhibition of advertisement and includes an advertising consultant;”

(b) after clause (4), the following clause shall be inserted, namely:—

“(4A) “courier agency” means a commercial concern engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles.”;

(c) after clause (6), the following clause shall be inserted, namely:—

“(6A) “pager” means an instrument, apparatus or appliance which is a non-speech, one way personal calling system with alert and has the capability of receiving, storing and displaying numeric or alpha-numeric messages.”;

(d) in clause (15), for the words “telephone connection”, the words “telephone connection or pager” shall be substituted;

(e) in clause (16),—

(i) after sub-clause (b), the following sub-clause shall be inserted, namely:—

“(ba) to a subscriber, by the telegraph authority, in relation to a pager;”;

(ii) after sub-clause (c), the following sub-clauses shall be inserted, namely:—

“(d) to a client, by an advertising agency, in relation to advertisements in any manner;

(e) to a customer, by a courier agency, in relation to door-to-door transportation of time-sensitive documents, goods or articles;”;

(2) for section 66, the following section shall be substituted, namely:—

“66. (1) On and from the commencement of this Chapter, there shall be charged a tax (hereinafter referred to as the service tax), at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (a), (b) and (c) of clause (16) of section 65 which are provided to any person by the person responsible for collecting the service tax.

(2) With effect from the date notified under section 85 of the Finance (No. 2) Act, 1996, there shall be charged a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (ba), (d) and (e) of clause (16) of section 65 which are provided to any person by the person responsible for collecting the service tax.”;

Charge of
service tax.

(3) in section 67,—

(i) in clause (b), for the words “telephone connections”, at both the places where they occur, the words “telephone connections or pagers” shall be substituted;

(ii) after clause (c) the following clauses shall be inserted, namely:—

“(d) in relation to service provided by an advertising agency to a client shall be the gross amount charged by such agency from the client for services in relation to advertisements;

(e) in relation to service provided by a courier agency to a customer shall be the gross amount charged by such agency from the customer for services in relation to door-to-door transportation of time sensitive documents, goods and articles;”;

(4) in section 68, in sub-section (1), for the words “or the insurer”, the words “, the insurer, the advertising agency or the courier agency” shall be substituted.

32 of 1994.

86. Notwithstanding anything contained in section 93 of the Finance Act, 1994, the notification of the Government of India in the Ministry of Finance, Department of Revenue No. G.S.R. 174(E), dated the 3rd April, 1996, shall have and shall be deemed always to have had, effect on and from the 1st day of July, 1994.

Validation.

CHAPTER VI

MISCELLANEOUS

87. In section 15 of the Central Sales Tax Act, 1956, after clause (c), the following clause shall be inserted, namely:—

“(ca) where a tax on sale or purchase of paddy referred to in sub-clause (i) of clause (1) of section 14 is leviable under that law and the rice procured out of such paddy is exported out of India, then, for the purposes of sub-section (3) of section 5, the paddy and rice shall be treated as a single commodity.”

Amendment of Act 74 of 1956.

1 of 1956.

88. Notwithstanding anything contained in the Income-tax Act, the North-Eastern Development Finance Corporation Limited (a company formed and registered under the Companies Act, 1956) shall not be liable to pay tax on its income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 and for the nine previous years next following that previous year.

North-Eastern Development Finance Corporation Limited to be exempt for a certain period from liability to pay income-tax.

89. In the Indian Post Office Act, 1898, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the First Schedule, the following Schedule shall be substituted, namely:—

Amendment of Act 6 of 1898.

“THE FIRST SCHEDULE

(See section 7)

INLAND POSTAGE RATES

Letters

For a weight not exceeding twenty grams

Re. 1.00

For every twenty grams, or fraction thereof, exceeding twenty grams

Re. 1.00

Letter-cards

For a letter-card

75 paise.

Post cards (not being post cards containing printed communication or competition post cards)

Single

15 paise

Reply

30 paise.

Post cards containing printed communication (not being competition post cards)

For a post card

Re. 1.00.

Explanation.— A post card shall be deemed to contain a printed communication, if any matter (except the name and address of, and other particulars relating to, the sender and the place and date of despatch) is recorded by printing or by cyclostyling or by any other mechanical process, not being typewriting, on any part of the post card except the right hand half of the address-side thereof.

Competition post cards

For a post card

Rs. 2.00

Explanation.— A post card shall be deemed to be a competition post card if it is used in response to any competition organised on or through television, radio, newspaper, magazine or any other media.

Book, pattern and sample packets

For the first fifty grams or fraction thereof

Re. 1.00

For every additional one hundred grams, or fraction thereof,
in excess of fifty grams

Re. 1.00

Registered newspapers

For a weight not exceeding fifty grams

15 paise

For a weight exceeding fifty grams but not exceeding one
hundred grams

25 paise

For every additional one hundred grams, or fraction thereof,
exceeding one hundred grams

10 paise.

In the case of more than one copy of the same issue of a registered newspaper being
carried in the same packet—

For a weight not exceeding one hundred grams

25 paise

For every additional one hundred grams, or fraction thereof,
exceeding one hundred grams

10 paise.

Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the Post Office.

Parcels

For a weight not exceeding five hundred grams

Rs. 6.00

For every five hundred grams, or fraction thereof,
exceeding five hundred grams

Rs. 6.00."

90. Section 2 of the Finance Act, 1996 is hereby repealed and shall be deemed never to have been enacted.

Repeal.

THE FIRST SCHEDULE

(See section 2)

5 of 1996.

PART I

INCOME-TAX

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 40,000 | Nil; |
| (2) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000 | 20 per cent. of the amount by which the total income exceeds Rs. 40,000; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,20,000 | Rs. 4,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,20,000 | Rs. 22,000 plus 40 per cent. of the amount by which the total income exceeds Rs. 1,20,000. |

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1996 exceeds Rs. 40,000,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 18,000 | Nil; |
| (2) where the total income exceeds Rs. 18,000 but does not exceed Rs. 1,00,000 | 30 per cent. of the amount by which the total income exceeds Rs. 18,000; |
| (3) where the total income exceeds Rs. 1,00,000 | Rs. 24,600 plus 40 per cent. of the amount by which the total income exceeds Rs. 1,00,000. |

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 plus 35 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 40 per cent.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company 40 per cent. of the total income;

II. In the case of a company other than a domestic company,—

(i) on so much of the total income as consists of—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government; 50 per cent.;

(ii) on the balance, if any, of the total income 55 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of this Paragraph or sections 112 and 113 of the Income-tax Act, shall, in the case of every domestic company having a total income exceeding seventy-five thousand rupees, be increased by a surcharge calculated at the rate of fifteen per cent. of such income-tax.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

	Rate of income-tax
1. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on income by way of insurance commission	10 per cent.;

	Rate of income-tax
(v) on income by way of interest payable on—	10 per cent.;
(A) any security of the Central or a State Government	
(B) any debentures or other securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act	
(C) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and any rules made thereunder	
(vi) on any other income	20 per cent.;
(b) where the person is not resident in India—	
(i) in the case of a non-resident Indian—	
(A) on investment income and long-term capital gains	20 per cent.;
(B) on income by way of dividends and interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(C) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(D) on income by way of winnings from horse races	40 per cent.;
(E) on the whole of other income	income-tax at 30 per cent. of the amount of income or income-tax in respect of the income at the rates prescribed in Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher;
(ii) in the case of any other person—	
(A) on income by way of dividends, interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(B) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(C) on income by way of winnings from horse races	40 per cent.;
(D) on income by way of long-term capital gains	20 per cent.;
(E) on the whole of the other income	income-tax at 30 per cent. of the amount of income or income-tax in respect of the income at the rates prescribed in Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher.
2. In the case of a company—	
(a) where the company is a domestic company—	
(i) on income by way of interest other than "Interest on securities"	20 per cent.;
(ii) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on any other income	21.5 per cent.;

- (b) where the company is not a domestic company—
- (i) on income by way of dividends payable by any domestic company 20 per cent.;
 - (ii) on income by way of winnings from lotteries and crossword puzzles 40 per cent.;
 - (iii) on income by way of winnings from horse races 40 per cent.;
 - (iv) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency 20 per cent.;
 - (v) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India. 30 per cent.;
 - (vi) on income by way of royalty [not being royalty of the nature referred to in sub-item (b) (v)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—
 - (A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976 50 per cent.;
 - (B) where the agreement is made after the 31st day of March, 1976 30 per cent.;
 - (vii) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—
 - (A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976 50 per cent.;
 - (B) where the agreement is made after the 31st day of March, 1976 30 per cent.;
 - (viii) on income by way of long-term capital gains 20 per cent.;
 - (ix) on any other income 55 per cent.

Explanation.—For the purpose of item 1(b)(i) of this Part, “investment income” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of sub-item (a) of item 2 of this Part shall be increased by a surcharge calculated at the rate of seven-and-a-half per cent. of such income-tax.

PART III

RATES FOR CALCULATING OR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD “SALARIES” AND COMPUTING “ADVANCE TAX”

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head “Salaries” or in which the “advance tax” payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, “advance-tax” [not being “advance tax” in respect of any

income chargeable to tax under Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge on such "advance tax" in respect of any income chargeable to tax under section 115B], shall be calculated, charged, deducted or computed at the following rate or rates:—

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies;—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 40,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000 | 15 per cent. of the amount by which the total income exceeds Rs. 40,000; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,20,000 | Rs. 3,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,20,000 | Rs. 21,000 <i>plus</i> 40 per cent. of the amount by which the total income exceeds Rs. 1,20,000. |

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 <i>plus</i> 35 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of income-tax

- | | |
|----------------------------------|--------------|
| On the whole of the total income | 40 per cent. |
|----------------------------------|--------------|

Paragraph D

In the case of every local authority,—

Rate of income-tax

- | | |
|----------------------------------|--------------|
| On the whole of the total income | 30 per cent. |
|----------------------------------|--------------|

Paragraph E

In the case of a company,—

Rates of income-tax

- | | |
|--|-----------------------------------|
| I. In the case of a domestic company | 40 per cent. of the total income; |
| II. In the case of a company other than a domestic company,— | |

(i) on so much of the total income as consists of—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government.

50 per cent.;

(ii) on the balance, if any, of the total income

55 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of this Paragraph or sections 112 and 113 of the Income tax Act shall, in the case of every domestic company having a total income exceeding seventy-five thousand rupees, be increased by a surcharge calculated at the rate of seven-and-a-half per cent. of such income-tax.

PART IV

[See section 2(9)(c)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the Head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly.

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962 and sixty per cent. of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1996, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1988, to the extent, if any, such loss has not been set off against the agricultural income for the previous year

relevant to the assessment year commencing on the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1989, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1996.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996, is a loss, then, for the purposes of sub-section (8) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1989, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous

year relevant to the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1997.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2):

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1988 (26 of 1988), or of the First Schedule to the Finance Act, 1989 (13 of 1989), or of the First Schedule to the Finance Act, 1990 (12 of 1990), or of the First Schedule to the Finance (No. 2) Act, 1991 (49 of 1991), or of the First Schedule to the Finance Act, 1992 (18 of 1992), or of the First Schedule to the Finance Act, 1993 (38 of 1993), or of the First Schedule to the Finance Act, 1994 (32 of 1994), or of the First Schedule to the Finance Act, 1995 (22 of 1995), shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

(See section 67)

In the First Schedule to the Customs Tariff Act,—

(1) in Chapter 4, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 0402.10 and 0402.21), the entry "30%" shall be substituted;

(2) in Chapter 7,—

(i) in sub-heading Nos. 0713.10, 0713.20, 0713.31, 0713.32, 0713.33, 0713.39, 0713.40, 0713.50 and 0713.90, for the entries in column (4) and column (5) occurring against each of them, the entries "5%" and "5%" shall respectively be substituted;

(ii) in sub-heading Nos. 0714.10, 0714.20 and 0714.90, for the entries in column (4) and column (5) occurring against each of them, the entries "10%" and "10%" shall respectively be substituted;

(3) in Chapter 8,—

(i) in sub-heading No. 0801.31, for the entries in column (4) and column (5), the entries "Free" and "Free" shall respectively be substituted;

(ii) in sub-heading No. 0804.10, for the entries in column (4) and column (5), the entries "30%" and "20%" shall respectively be substituted;

(iii) in sub-heading No. 0806.20, for the entries in column (4) and column (5), the entries "130%" and "120%" shall respectively be substituted;

(iv) in sub-heading No. 0810.90, for the entries in column (4) and column (5), the entries "10%" and "10%" shall respectively be substituted;

(4) in Chapter 9,—

(i) in sub-heading No. 0903.00, for the entries in column (4) and column (5) occurring against each of them, the entries "30%" and "30% less 26 paise per kg." shall respectively be substituted;

(ii) in sub-heading Nos. 0904.11 and 0904.12, for the entries in column (4) and column (5) occurring against each of them, the entries "30%" and "22.5%" shall respectively be substituted;

(iii) in sub-heading Nos. 0904.20 and 0905.00, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(iv) in sub-heading Nos. 0906.10, 0906.20, 0907.00 and 0908.10, for the entries in column (4) and column (5) occurring against each of them, the entries "30%" and "22.5%" shall respectively be substituted;

(v) in sub-heading No. 0908.20, for the entry in column (4), the entry "30%" shall be substituted;

(vi) in sub-heading No. 0908.30, for the entries in column (4) and column (5), the entries "30%" and "22.5%" shall respectively be substituted;

(vii) in sub-heading Nos. 0909.10, 0909.20, 0909.30, 0909.40, 0909.50, 0910.10, 0910.20, 0910.30, 0910.40, 0910.50, 0910.91 and 0910.99, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(5) in Chapter 11, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 1107.10, 1107.20, 1108.11, 1108.12, 1108.13, 1108.14, 1108.19 and 1108.20), the entry "30%" shall be substituted;

(6) in Chapter 12, in sub-heading No. 1211.90, for the entry in column (4), the entry "10%" shall be substituted;

(7) in Chapter 13, in sub-heading Nos. 1302.19 and 1302.20, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(8) in Chapter 15,—

(i) in sub-heading No. 1501.00, for the entry in column (4), the entry "40%" shall be substituted;

(ii) in sub-heading No. 1502.00, for the entry in column (4), the entry "10%" shall be substituted;

(iii) in sub-heading Nos. 1503.00, 1504.10, 1504.20, 1504.30, 1505.10, 1505.90 and 1506.00, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(iv) in sub-heading Nos. 1507.10 and 1507.90, for the entries in column (4) and column (5) occurring against each of them, the entries "30%" and "20%" shall respectively be substituted;

(v) in sub-heading Nos. 1508.10 and 1508.90, for the entries in column (4) and column (5) occurring against each of them, the entries "40%" and "30%" shall respectively be substituted;

(vi) in sub-heading Nos. 1509.10, 1509.90 and 1510.00, for the entries in column (4) and column (5) occurring against each of them, the entries "30%" and "20%" shall respectively be substituted;

(vii) in sub-heading Nos. 1511.10, 1511.90, 1512.11, 1512.19, 1512.21, 1512.29, 1513.11, 1513.19, 1513.21 and 1513.29, for the entries in column (4) and column (5) occurring against each of them, the entries "40%" and "30%" shall respectively be substituted;

(viii) in sub-heading Nos. 1514.10 and 1514.90, for the entries in column (4) and column (5) occurring against each of them, the entries "30%" and "20%" shall respectively be substituted;

(ix) in sub-heading Nos. 1515.11, 1515.19, 1515.21, 1515.29, 1515.30, 1515.40, 1515.50, 1515.60, and 1515.90, for the entries in column (4) and column (5) occurring against each of them, the entries "40%" and "30%" shall respectively be substituted;

(x) in sub-heading Nos. 1516.10, 1516.20, 1517.10, 1517.90, 1518.00, 1520.00, 1521.10, 1521.90 and 1522.00, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(9) in Chapter 17,—

(i) in sub-heading Nos. 1702.11 and 1702.19, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(ii) in sub-heading Nos. 1703.10 and 1703.90, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(10) in Chapter 18, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

(11) in Chapter 19, in sub-heading No. 1901.10, for the entry in column (4), the entry "10%" shall be substituted;

(12) in Chapter 21, in sub-heading No. 2106.90, for the entry in column (4), the entry "195%" shall be substituted;

(13) in Chapter 22,—

(i) in sub-heading No. 2203.00, for the entry in column (4), the entry "150%" shall be substituted;

(ii) in sub-heading Nos. 2204.10, 2204.21 and 2204.29, for the entry in column (4) occurring against each of them, the entry "275%" shall be substituted;

(iii) in sub-heading No. 2204.30, for the entry in column (4), the entry "150%" shall be substituted;

(iv) in sub-heading Nos. 2205.10 and 2205.90, for the entry in column (4) occurring against each of them, the entry "275%" shall be substituted;

(v) in sub-heading No. 2206.00, for the entry in column (4), the entry "150%" shall be substituted;

(vi) in sub-heading No. 2207.10, for the entry in column (4), the entry "275%" shall be substituted;

(vii) in sub-heading No. 2207.20, for the entry in column (4), the entry "10%" shall be substituted;

(viii) in sub-heading Nos. 2208.20, 2208.30, 2208.40, 2208.50, 2208.60, 2208.70, and 2208.90, for the entry in column (4), occurring against each of them, the entry "275%" shall be substituted;

(14) in Chapter 23, in sub-heading No. 2301.20, for the entry in column (4), the entry "10%" shall be substituted;

(15) in Chapter 25,—

(i) in sub-heading No. 2501.00, for the entry in column (4), the entry "40%" shall be substituted;

- (ii) in sub-heading No. 2502.00, for the entry in column (4), the entry "25%" shall be substituted;
 - (iii) in sub-heading No. 2503.00, for the entry in column (4), the entry "40%" shall be substituted;
 - (iv) in sub-heading Nos. 2504.10 and 2504.90, for the entries in column (4) and column (5) occurring against each of them, the entries "40%" and "30%" shall respectively be substituted;
 - (v) in sub-heading Nos. 2505.10, 2505.90, 2506.10, 2506.21, 2506.29, 2507.00, 2508.10, 2508.20, 2508.30, 2508.40, 2508.50, 2508.60, 2508.70 and 2509.00, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
 - (vi) in sub-heading Nos. 2510.10 and 2510.20, for the entry in column (4) occurring against each of them, the entry "Free" shall be substituted;
 - (vii) in sub-heading Nos. 2511.10, 2511.20, 2512.00, 2513.11, 2513.19, 2513.20 and 2514.00, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
 - (viii) in sub-heading Nos. 2515.11, 2515.12, 2515.20, 2516.11, 2516.12, 2516.21, 2516.22, 2516.90, 2517.10, 2517.20, 2517.30, 2517.41, and 2517.49, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;
 - (ix) in sub-heading Nos. 2518.10, 2518.20, 2518.30, 2520.10 and 2520.20, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
 - (x) in sub-heading Nos. 2521.00, 2522.10, 2522.20, 2522.30, 2523.10, 2523.21, 2523.29, 2523.30, 2523.90 and 2524.00, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;
 - (xi) in sub-heading Nos. 2525.10, 2525.20, 2525.30, 2526.10 and 2526.20, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
 - (xii) in sub-heading No. 2527.00, for the entries in column (4) and column (5), the entries "25%" and "15%" shall respectively be substituted;
 - (xiii) in sub-heading Nos. 2528.10, 2528.90, 2529.10, 2529.21, 2529.22, 2529.30, 2530.10, 2530.20, 2530.40 and 2530.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
- (16) in Chapter 26,—
- (i) in sub-heading Nos. 2601.11, 2601.12 and 2601.20, for the entry in column (4) occurring against each of them, the entry "5%" shall be substituted;
 - (ii) in sub-heading Nos. 2620.11, 2620.19 and 2620.30, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;
- (17) in Chapter 27,—
- (i) in sub-heading Nos. 2701.11, 2701.12, 2701.19, 2701.20, 2702.10, 2702.20, 2703.00 and 2704.00, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;
 - (ii) in sub-heading Nos. 2705.00, 2706.00, 2707.10, 2707.20, 2707.30, 2707.40, 2707.50, 2707.60, 2707.91, 2707.99, 2708.10 and 2708.20, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;
 - (iii) in sub-heading No. 2709.00, for the entry in column (4), the entry "25%" shall be substituted;
 - (iv) in sub-heading No. 2710.00, for the entry in column (4), the entry "30%" shall be substituted;
 - (v) in sub-heading Nos. 2711.11, 2711.12, 2711.13, 2711.14, 2711.19, 2711.21 and 2711.29, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;
 - (vi) in sub-heading Nos. 2712.10, 2712.20 and 2712.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;
 - (vii) in sub-heading No. 2713.11, for the entry in column (4), the entry "25%" shall be substituted;

(viii) in sub-heading Nos. 2713.12, 2713.20 and 2713.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(ix) in sub-heading Nos. 2714.10 and 2714.90, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(x) in sub-heading No. 2715.00, for the entry in column (4), the entry "30%" shall be substituted;

(18) in Chapter 28,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2801.20, 2815.11, 2815.12 and 2845.10), the entry "40%" shall be substituted;

(ii) in sub-heading No. 2801.20, for the entry in column (4), the entry "10%" shall be substituted;

(iii) in sub-heading Nos. 2815.11 and 2815.12, for entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(vi) in sub-heading No. 2845.10, for the entry in column (4), the entry "10%" shall be substituted;

(19) in Chapter 29,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2901.10, 2901.21, 2901.22, 2901.23, 2901.24, 2901.29, 2902.11, 2902.19, 2902.20, 2902.30, 2902.41, 2902.42, 2902.43, 2902.44, 2902.50, 2902.60, 2902.70, 2902.90, 2903.15, 2903.21, 2905.31, 2907.11, 2915.21, 2917.12, 2917.36, 2917.37, 2918.12, 2926.10, 2933.21, 2933.71, 2936.10, 2936.21, 2936.22, 2936.23, 2936.24, 2936.25, 2936.26, 2936.27, 2936.28, 2936.29, 2936.90, 2937.10, 2937.21, 2937.22, 2937.29, 2937.91, 2937.92, 2937.99, 2939.41, 2939.42, 2939.49, 2939.50, 2941.10, 2941.20, 2941.30, 2941.40, 2941.50 and 2941.90), the entry "40%" shall be substituted;

(ii) in sub-heading Nos. 2901.10, 2901.21, 2901.22, 2901.23, 2901.24, 2901.29, 2902.11, 2902.19, 2902.20, 2902.30, 2902.41, 2902.42, 2902.43, 2902.44, 2902.50, 2902.60, 2902.70, 2902.90, 2903.15 and 2903.21, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(iii) in sub-heading No. 2905.31, for the entry in column (4), the entry "25%" shall be substituted;

(iv) in sub-heading No. 2907.11, for the entry in column (4), the entry "30%" shall be substituted;

(v) in sub-heading Nos. 2915.21, 2917.12 and 2917.36, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(vi) in sub-heading No. 2917.37, for the entries in column (4) and column (5), the entries "25%" and "15%" shall respectively be substituted;

(vii) in sub-heading No. 2918.12, for the entry in column (4), the entry "25%" shall be substituted;

(viii) in sub-heading No. 2926.10, for the entry in column (4), the entry "10%" shall be substituted;

(ix) in sub-heading No. 2933.21, for the entry in column (4), the entry "25%" shall be substituted;

(x) in sub-heading No. 2933.71, for the entries in column (4) and column (5), the entries "30%" and "20%" shall respectively be substituted;

(xi) in sub-heading Nos. 2936.10, 2936.21, 2936.22, 2936.23, 2936.24, 2936.25, 2936.26, 2936.27, 2936.28, 2936.29 and 2936.90, for the entries in column (4) and column (5), occurring against each of them, the entries "40%" and "34%" shall respectively be substituted;

(xii) in sub-heading Nos. 2937.10, 2937.21, 2937.22, 2937.29, 2937.91, 2937.92, 2937.99, 2939.41, 2939.42, 2939.49 and 2939.50, for the entries in column (4) and column (5) occurring against each of them, the entries "40%" and "30%" shall respectively be substituted;

(xiii) in sub-heading Nos. 2941.10, 2941.20, 2941.30, 2941.40, 2941.50 and 2941.90, for the entries in column (4) and column (5) occurring against each of them, the entries "40%" and "34%" shall respectively be substituted;

(20) in Chapter 30,—

(i) for the entries in column (4) and column (5) occurring against all the sub-heading Nos. (except sub-heading Nos. 3005.10, 3005.90, 3006.10, 3006.20, 3006.30, 3006.40, 3006.50 and 3006.60), the entries "40%" and "30%" shall respectively be substituted;

(ii) in sub-heading Nos. 3005.10, 3005.90, 3006.10, 3006.20, 3006.30, 3006.40 and 3006.50, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(iii) in sub-heading No. 3006.60, for the entry in column (4), the entry "Free" shall be substituted;

(21) in Chapter 31, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3102.21, 3102.50, 3104.30, 3105.20, 3105.30, 3105.40, 3105.51, 3105.59, 3105.60 and 3105.90), the entry "40%" shall be substituted;

(22) in Chapter 32,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3201.10, 3201.20 and 3201.90), the entry "40%" shall be substituted;

(ii) in sub-heading Nos. 3201.10 and 3201.20, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(iii) in sub-heading No. 3201.90, for the entries in column (4) and column (5), the entries "10%" and "Free" shall respectively be substituted;

(23) in Chapter 33, in sub-heading No. 3302.10, for the entry in column (4), the entry "195%" shall be substituted;

(24) in Chapter 35, for the entry in column (4) occurring against all the sub-heading Nos. the entry "40%" shall be substituted;

(25) in Chapter 36, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

(26) in Chapter 37,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3701.20 and 3702.20), the entry "30%" shall be substituted;

(ii) in sub-heading Nos. 3701.20 and 3702.20, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(27) in Chapter 38,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3801.10, 3802.10, 3812.10, 3815.11, 3815.12, 3815.19, 3815.90 and 3817.10), the entry "40%" shall be substituted;

(ii) in sub-heading Nos. 3801.10, 3802.10 and 3812.10, for the entries in column (4) and column (5) occurring against each of them, the entries "40%" and "30%" shall respectively be substituted;

(iii) in sub-heading Nos. 3815.11 and 3815.12, for the entries in column (4) and column (5) occurring against each of them, the entries "30%" and "20%" shall respectively be substituted;

(iv) in sub-heading Nos. 3815.19, 3815.90 and 3817.10, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(28) in Chapter 39,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3916.10, 3916.20, 3916.90, 3917.10, 3917.21, 3917.22, 3917.23, 3917.29, 3917.31, 3917.32, 3917.33, 3917.39, 3917.40, 3918.10, 3918.90, 3919.10, 3919.90, 3920.10, 3920.20, 3920.30, 3920.41, 3920.42, 3920.51, 3920.59, 3920.61, 3920.62, 3920.63, 3920.69, 3920.71, 3920.72, 3920.73, 3920.79, 3920.91, 3920.92, 3920.93, 3920.94, 3920.99, 3921.11, 3921.12, 3921.13, 3921.14, 3921.19, 3921.90, 3922.10, 3922.20, 3922.90, 3923.10, 3923.21, 3923.29, 3923.30, 3923.40, 3923.50, 3923.90, 3924.10, 3924.90, 3925.10, 3925.20, 3925.30, 3925.90, 3926.10, 3926.20, 3926.30, 3926.40 and 3926.90), the entry "30%" shall be substituted;

(ii) in sub-heading Nos. 3916.10, 3916.20, 3916.90, 3917.10, 3917.21, 3917.22, 3917.23, 3917.29, 3917.31, 3917.32, 3917.33, 3917.39, 3917.40, 3918.10, 3918.90, 3919.10, 3919.90, 3920.10, 3920.20, 3920.30, 3920.41, 3920.42, 3920.51, 3920.59, 3920.61, 3920.62, 3920.63, 3920.69, 3920.71, 3920.72, 3920.73, 3920.79, 3920.91, 3920.92, 3920.93, 3920.94, 3920.99, 3921.11, 3921.12, 3921.13, 3921.14, 3921.19, 3921.90, 3922.10, 3922.20, 3922.90, 3923.10, 3923.21, 3923.29, 3923.30, 3923.40, 3923.50, 3923.90, 3924.10, 3924.90, 3925.10, 3925.20, 3925.30, 3925.90, 3926.10, 3926.20, 3926.30, 3926.40 and 3926.90, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(29) in Chapter 40, in sub-heading Nos. 4001.10, 4001.21, 4001.22 and 4001.29, for the entry in column (4) occurring against each of them; the entry "20%" shall be substituted;

(30) in Chapter 41,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 4101.10, 4101.21, 4101.22, 4101.29, 4101.30, 4101.40, 4102.10, 4102.21, 4102.29, 4103.10, 4103.20 and 4103.90), the entry "20%" shall be substituted;

(ii) in sub-heading Nos. 4101.10, 4101.21, 4101.22, 4101.29, 4101.30, 4101.40, 4102.10, 4102.21, 4102.29, 4103.10, 4103.20 and 4103.90, for the entry in column (4) occurring against each of them, the entry "Free" shall be substituted;

(31) in Chapter 43, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 4303.10, 4303.90 and 4304.90), the entry "10%" shall be substituted;

(32) in Chapter 44,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 4401.10, 4401.21, 4401.22, 4401.30, 4402.00, 4403.10, 4403.20, 4403.41, 4403.49, 4403.91, 4403.92 and 4403.99), the entry "30%" shall be substituted;

(ii) in sub-heading Nos. 4401.10, 4401.21, 4401.22, 4401.30, 4402.00, 4403.10, 4403.20, 4403.41, 4403.49, 4403.91, 4403.92 and 4403.99, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(33) in Chapter 45, for the entry in column (4) occurring against all the sub-heading Nos., the entry "30%" shall be substituted;

(34) In Chapter 47,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 4702.00), the entry "58%" shall be substituted;

(ii) in sub-heading No. 4702.00, for the entry in column (4), the entry "10%" shall be substituted;

(35) in Chapter 48, in sub-heading Nos. 4801.00, 4802.10, 4802.20, 4802.30, 4802.40, 4802.51, 4802.52, 4802.53, 4802.60, 4803.00, 4804.11, 4804.19, 4804.21, 4804.29, 4804.31, 4804.39, 4804.41, 4804.42, 4804.49, 4804.51, 4804.52, 4804.59, 4805.10, 4805.21, 4805.22, 4805.23, 4805.29, 4805.30, 4805.40, 4805.50, 4805.60, 4805.70, 4805.80, 4806.10, 4806.20, 4806.30, 4806.40, 4807.10, 4807.90, 4808.10, 4808.20, 4808.30, 4808.90, 4809.10, 4809.20, 4809.90, 4810.11, 4810.12, 4810.21, 4810.29, 4810.31, 4810.32, 4810.39, 4810.91, 4810.99, 4811.10, 4811.21, 4811.29, 4811.31, 4811.39, 4811.40 and 4811.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(36) in Chapter 49,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 4902.10, 4902.90, 4904.00, 4905.10, 4905.91, 4905.99 and 4906.00), the entry "20%" shall be substituted;

(ii) in sub-heading Nos. 4902.10, 4902.90 and 4904.00, for the entry in column (4) occurring against each of them, the entry "Free" shall be substituted;

(iii) in sub-heading Nos. 4905.10, 4905.91, 4905.99 and 4906.00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(37) in Chapter 50, in sub-heading No. 5001.00, for the entry in column (4), the entry "40%" shall be substituted;

(38) in Chapter 51, in sub-heading No. 5105.30, for the entry in column (4), the entry "40%" shall be substituted;

(39) in Chapter 53, in sub-heading Nos. 5301.10, 5301.21, 5301.29, 5301.30, 5302.10, 5302.90, 5303.10, 5303.90, 5304.10, 5304.90, 5305.11, 5305.19, 5305.21, 5305.29, 5305.91 and 5305.99, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(40) in Chapter 54, in sub-heading Nos. 5402.10, 5402.20, 5402.31, 5402.32, 5402.33, 5402.39, 5402.41, 5402.42, 5402.43, 5402.49, 5402.51, 5402.52, 5402.59, 5402.61, 5402.62, 5402.69, 5403.10, 5403.31, 5403.32, 5403.33, 5403.39, 5403.41, 5403.42 and 5403.49, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(41) in Chapter 55, in sub-heading Nos. 5501.10, 5501.20, 5501.30, 5501.90, 5502.00, 5503.10, 5503.20, 5503.30, 5503.40, 5503.90, 5504.10, 5504.90, 5506.10, 5506.20, 5506.30, 5506.90 and 5507.00, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(42) in Chapter 63, in sub-heading Nos. 6310.10 and 6310.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(43) in Chapter 68, in sub-heading Nos. 6806.10, 6806.20 and 6806.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(44) in Chapter 69, in sub-heading Nos. 6902.10, 6902.20 and 6902.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(45) in Chapter 72, for the entry in column (4) occurring against all the sub-heading Nos., the entry "30%" shall be substituted;

(46) in Chapter 73, for the entry in column (4) occurring against all the sub-heading Nos., the entry "30%" shall be substituted;

(47) in Chapter 74, for the entry in column (4) occurring against all the sub-heading Nos., the entry "30%" shall be substituted;

(48) in Chapter 75, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7501.10, 7501.20, 7502.10, 7502.20 and 7503.00), the entry "20%" shall be substituted;

(49) in Chapter 76,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7601.10, 7601.20 and 7602.00), the entry "20%" shall be substituted;

(ii) in sub-heading Nos. 7601.10, 7601.20 and 7602.00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(50) in Chapter 78, for the entry in column (4) occurring against all the sub-heading Nos. the entry "30%" shall be substituted;

(51) in Chapter 79, for the entry in column (4) occurring against all the sub-heading Nos. the entry "30%" shall be substituted;

(52) in Chapter 80, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8001.10, 8001.20 and 8002.00), the entry "30%" shall be substituted;

(53) in Chapter 81, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8101.10, 8101.91, 8102.10, 8102.91, 8103.10, 8105.10, 8106.00, 8107.10, 8108.10, 8109.10, 8110.00, 8111.00, 8112.11, 8112.20, 8112.30, 8112.40 and 8112.91), the entry "30%" shall be substituted.

(54) in Chapter 84,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8407.21, 8414.30, 8414.40, 8414.80, 8414.90, 8415.10, 8415.20, 8415.81, 8415.82, 8415.83, 8415.90, 8418.10, 8418.21, 8418.22, 8418.29, 8418.91, 8418.99, 8422.11, 8422.19, 8422.90, 8423.10, 8447.20,

8448.11, 8448.19, 8448.51, 8448.59, 8450.11, 8450.12, 8450.19, 8450.20, 8450.90, 8451.10, 8451.90, 8452.10, 8452.21, 8452.29, 8452.30, 8452.40, 8452.90, 8469.11, 8469.12, 8469.20, 8469.30, 8470.10, 8470.21, 8470.29, 8470.30, 8470.40, 8470.50, 8470.90, 8471.10, 8471.30, 8471.41, 8471.49, 8471.50, 8471.60, 8471.70, 8471.80, 8471.90, 8472.10, 8472.20, 8472.30, 8472.90, 8473.10, 8473.21, 8473.29, 8473.30, 8473.40, 8473.50, 8479.50, 8479.60, 8479.89, 8482.10, 8482.20, 8482.30, 8482.40, 8482.50, 8482.80, 8482.91, 8482.99, 8485.10 and 8485.90, the entry "25%" shall be substituted;

(ii) in sub-heading No. 8407.21, for the entry in column (4), the entry "10%" shall be substituted;

(iii) in sub-heading Nos. 8471.10, 8471.30, 8471.41, 8471.49, 8471.50, 8471.60, 8471.70, 8471.80, 8471.90 and 8473.30, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(iv) in sub-heading Nos. 8482.10, 8482.20, 8482.30, 8482.40, 8482.50, 8482.80, 8482.91 and 8482.99, for the entry in column (4) occurring against each of them, the entry "25% plus Rs. 150 per Kg." shall be substituted;

(55) in Chapter 85,—

(i) in sub-heading Nos. 8501.20, 8501.31, 8501.32, 8501.33, 8501.34, 8501.40, 8501.51, 8501.52, 8501.53, 8501.61, 8501.62, 8501.63, 8501.64, 8502.11, 8502.12, 8502.13, 8502.20, 8502.31, 8502.39, 8502.40, 8503.00, 8504.10, 8504.21, 8504.22, 8504.23, 8504.31, 8504.32, 8504.33, 8504.34, 8504.40, 8504.50, 8504.90, 8505.11, 8505.19, 8505.20, 8505.30, 8505.90, 8508.90, 8514.10, 8514.20, 8514.30, 8514.40, 8514.90, 8515.11, 8515.19, 8515.21, 8515.29, 8515.31, 8515.39, 8515.80, 8515.90 and 8516.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(ii) in sub-heading Nos. 8517.11, 8517.19, 8517.21, 8517.22, 8517.30, 8517.50 and 8517.80, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(iii) in sub-heading Nos. 8517.90, 8518.90 and 8522.10, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(iv) in sub-heading Nos. 8525.10, 8525.20 and 8527.90, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(v) in sub-heading Nos. 8529.10 and 8529.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(vi) in sub-heading Nos. 8530.10, 8530.80, and 8530.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted.

(vii) in sub-heading Nos. 8533.10, 8533.21, 8533.29, 8533.31, 8533.39, 8533.40, 8533.90 and 8534.00, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(viii) in sub-heading Nos. 8535.10, 8535.21, 8535.29, 8535.30, 8535.40, 8535.90 and 8537.20, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(ix) in sub-heading No. 8540.11, for the entry in column (4), the entry "35%" shall be substituted;

(x) in sub-heading Nos. 8540.12, 8540.20, 8540.40, 8540.50, 8540.60, 8540.71, 8540.72, 8540.79, 8540.81, and 8540.89, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(xi) in sub-heading No. 8540.91, for the entry in column (4), the entry "30%" shall be substituted;

(xii) in sub-heading Nos. 8540.99, 8541.10, 8541.21, 8541.29, 8541.30, 8541.40, 8541.50, 8541.60, 8541.90, 8542.12, 8542.13, 8542.14, 8542.19, 8542.30, 8542.40, 8542.50 and 8542.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(xiii) in sub-heading Nos. 8543.11, 8543.19, 8543.20, 8543.30, 8543.90, 8545.11, 8545.19, 8545.20, 8545.90, 8546.10, 8546.20, 8546.90, 8547.10, 8547.20 and 8547.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(xiv) in sub-heading No. 8548.10, for the entry in column (4), the entry "30%" shall be substituted;

(56) in Chapter 86, in sub-heading Nos. 8607.11, 8607.12, 8607.19, 8607.21, 8607.29, 8607.30, 8607.91, 8607.99 and 8608.00, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(57) in Chapter 89, in sub-heading No. 8908.00, for the entry in column (4), the entry "10%" shall be substituted;

(58) in Chapter 90,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 9001.10, 9001.20, 9001.30, 9001.40, 9001.50, 9001.90, 9002.11, 9002.19, 9002.20, 9002.90, 9003.11, 9003.19, 9003.90, 9004.10, 9004.90, 9005.10, 9005.80, 9005.90, 9006.10, 9006.20, 9006.30, 9006.40, 9006.51, 9006.52, 9006.53, 9006.59, 9006.61, 9006.62, 9006.69, 9006.91, 9006.99, 9007.11, 9007.19, 9007.20, 9007.91, 9007.92, 9008.10, 9008.20, 9008.30, 9008.40, 9008.90, 9009.11, 9009.12, 9009.21, 9009.22, 9009.30, 9009.90, 9010.10, 9010.41, 9010.42, 9010.49, 9010.50, 9010.60, 9010.90, 9013.10, 9013.20, 9013.80, 9013.90, 9018.11, 9018.12, 9018.13, 9018.14, 9018.19, 9018.20, 9018.31, 9018.32, 9018.39, 9018.41, 9018.49, 9018.50, 9018.90, 9019.10, 9019.20, 9020.00, 9021.11, 9021.19, 9021.21, 9021.29, 9021.30, 9021.40, 9021.50, 9021.90, 9022.12, 9022.13, 9022.14, 9022.19, 9022.21, 9022.29, 9022.30 and 9022.90), the entry "25%" shall be substituted;

(ii) in sub-heading Nos. 9018.11, 9018.12, 9018.13, 9018.14, 9018.19, 9018.20, 9018.31, 9018.32, 9018.39, 9018.41, 9018.49, 9018.50, 9018.90, 9019.10, 9019.20, 9020.00, 9021.11, 9021.19, 9021.21, 9021.29, 9021.30, 9021.40, 9021.50, 9021.90, 9022.12, 9022.13, 9022.14 and 9022.21, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(59) in Chapter 92, for the entry in column (4) occurring against all the sub-heading Nos., the entry "30%" shall be substituted;

(60) in Chapter 95, for the entry in column (4) occurring against all the sub-heading Nos., the entry "30%" shall be substituted;

(61) in Chapter 97,—

(i) in sub-heading No. 9704.00, for the entry in column (4), the entry "Free" shall be substituted;

(ii) in sub-heading No. 9705.00, for the entry in column (4), the entry "40%" shall be substituted;

(62) in Chapter 98, in sub-heading No. 9801.00, for the entry in column (4), the entry "25%" shall be substituted.

THE THIRD SCHEDULE

(See section 82)

PART I

In the Schedule to the Central Excise Tariff Act,—

- (1) in Chapter 11, in sub-heading No. 1102.00, for the entry in column (4), the entry "10%" shall be substituted;
- (2) in Chapter 15, in sub-heading Nos. 1501.00, 1504.00 and 1508.90, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;
- (3) in Chapter 17,—
 - (i) in sub-heading No. 1701.31, for the entry in column (4), the entry "Rs. 17 per quintal" shall be substituted;
 - (ii) in sub-heading No. 1701.39, for the entry in column (4), the entry "Rs. 34 per quintal" shall be substituted;
 - (iii) in sub-heading No. 1701.90, for the entry in column (4), the entry "20%" shall be substituted;
- (4) in Chapter 19,—
 - (i) in sub-heading No. 1902.10, for the entry in column (4), the entry "15%" shall be substituted;
 - (ii) in sub-heading No. 1903.10, for the entry in column (4), the entry "Nil" shall be substituted;
- (5) in Chapter 21,—
 - (i) in sub-heading Nos. 2101.10 and 2101.20, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
 - (ii) in sub-heading Nos. 2101.30, 2103.11, 2103.19 and 2104.10, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;
 - (iii) in sub-heading No. 2106.00, for the entry in column (4), the entry "40%" shall be substituted;
- (6) in Chapter 22, in NOTE 2, for the words and figures "natural or artificial mineral waters of heading Nos. 22.01 and 22.02", the words and figures "waters, including natural or artificial mineral waters of heading No. 22.01 and waters, including mineral waters of heading No. 22.02" shall be substituted;
- (7) in Chapter 24, after NOTE 4, the following NOTE shall be inserted, namely:—

"5. In this Chapter, 'smoking mixtures for pipes and cigarettes' of sub-heading No. 2404.10 does not cover 'Gudaku.'";
- (8) in Chapter 25,—
 - (i) in sub-heading No. 2502.21, for the entry in column (4), the entry "30%" shall be substituted;
 - (ii) in sub-heading Nos. 2502.30, 2502.40, 2502.50 and 2502.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;
 - (iii) in sub-heading No. 2503.00, for the entry in column (4), the entry "Nil" shall be substituted;
 - (iv) in sub-heading Nos. 2504.21 and 2504.31, for the entry in column (4) occurring against each of them, the entry "Rs. 30 per square metre" shall be substituted;
 - (v) in sub-heading No. 2504.90, for the entry in column (4), the entry "Nil" shall be substituted;
- (9) in Chapter 27,—
 - (i) in sub-heading Nos. 2701.00, 2702.00, 2703.00, 2704.00 and 2709.00, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;
 - (ii) in sub-heading Nos. 2710.14 and 2710.90, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(iii) in sub-heading No. 2711.21, for the entry in column (4), the entry "Nil" shall be substituted;

(iv) in sub-heading Nos. 2712.10, 2712.20, 2712.90, 2713.11, 2713.12, 2713.20, 2713.30, 2714.10, 2714.90, 2715.10 and 2715.90, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(10) in Chapter 28, in sub-heading No. 2845.10, for the entry in column (4), the entry "Nil" shall be substituted;

(11) in Chapter 34, in sub-heading Nos. 3401.20 and 3402.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(12) in Chapter 37, in sub-heading Nos. 3701.10, 3701.20, 3701.90, 3702.10, 3702.20, 3702.90, 3703.10, 3703.20, 3704.10, 3704.20, 3704.90 and 3707.00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(13) in Chapter 38,—

(i) NOTES 2 and 3 shall be renumbered as NOTES 3 and 4 respectively and before NOTE 3 as so renumbered, the following NOTE shall be inserted, namely:—

"2. In relation to products of heading No. 38.08, addition of chemicals and other ingredients like inert carriers or solvents, surface active dispersing and stabilising agents, emulsifiers, wetting and dispersing agents, deodorant, masking agent, attractants and feeding stimulants to pesticidal chemicals in concentrated form, labelling or relabelling of containers intended for consumers and repacking from bulk pack to retail packs or the adoption of any other treatment to render the product marketable to the consumer shall amount to 'manufacture'."

(ii) in sub-heading No. 3808.10, for the entry in column (4), the entry "10%" shall be substituted;

(14) in Chapter 39, in sub-heading Nos. 3903.20, 3903.30, 3904.61, 3905.10, 3905.20, 3905.90, 3906.10, 3906.20, 3906.90, 3907.10, 3907.20, 3907.30, 3907.40, 3907.50, 3907.60, 3907.70, 3907.80, 3907.91, 3907.99, 3908.10, 3908.90, 3909.10, 3909.20, 3909.30, 3909.40, 3909.51, 3909.52, 3909.59, 3909.60, 3910.00, 3911.10, 3911.20, 3911.90, 3912.11, 3912.12, 3912.20, 3912.31, 3912.39, 3912.90, 3913.10, 3913.20, 3913.30, 3913.90, 3914.00, 3917.00, 3920.21, 3920.22, 3920.23, 3920.24, 3920.25, 3920.26, 3920.27, 3920.28 and 3920.29, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(15) in Chapter 40,—

(i) in sub-heading No. 4001.00, for the entry in column (4), the entry "Nil" shall be substituted;

(ii) in sub-heading No. 4006.10, for the entry in column (3), the following entry shall be substituted, namely:—

"- 'Camel-back' strip, tread rubber, tread rubber compound, cushion compound, cushion gum, tread gum, tread packing strip for resoling or repairing or retreading rubber tyres";

(iii) in sub-heading Nos. 4011.80, 4011.91 and 4011.99, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(16) in Chapter 46, in sub-heading No. 4601.00, for the entry in column (4), the entry "Nil" shall be substituted;

(17) in Chapter 47, in sub-heading No. 4701.00, for the entry in column (4), the entry "Nil" shall be substituted;

(18) in Section XI,—

(i) in NOTE 1,—

(a) for clause (e), the following clause shall be substituted, namely:—

"(e) Articles of Chapter 30 (for example, wadding, gauze, bandages and similar articles for medical, surgical, dental or veterinary purposes, sterile surgical suture materials); yarn used to clean between the teeth (dental floss), in individual retail packages, of heading No. 33.06;"

(b) after clause (f), the following clause shall be inserted, namely:—

"(u) Articles of Chapter 96 (for example brushes, travel sets for sewing, slide fasteners and typewriter ribbons).";

(ii) in NOTE 3, for clauses (b) and (c), the following clauses shall be substituted, namely:—

“(b) Dressed for use as sewing thread; and

(c) With a final ‘Z’ twist.”;

(iii) in NOTE 5, for clause (f), the following clause shall be substituted, namely:—

“(f) Knitted or crocheted to shape, whether presented as separate items or in the form of a number of items in the length.”;

(iv) for NOTE 6, the following NOTE shall be substituted, namely:—

“6. For the purposes of Chapters 50 to 60:

(a) Chapters 50 to 55 and 60 and, except where the context otherwise requires, Chapters 56 to 59 do not apply to goods made up within the meaning of NOTE 5 above; and-

(b) Chapters 50 to 55 and 60 do not apply to goods of Chapters 56 to 59.”;

(v) in SUB-HEADING NOTE 2, in clause (B), for sub-clause (iii), the following sub-clause shall be substituted, namely:—

“(iii) in the case of embroidery of heading No. 58.05 and goods thereof, only the ground fabric shall be taken into account. However, embroidery without visible ground, and goods thereof, shall be classified with reference to the embroidering threads alone.”;

(19) in Chapter 51, in sub-heading No. 5105.10, for the entry in column (4), the entry “10%” shall be substituted;

(20) in Chapter 52, in sub-heading Nos. 5207.10, 5207.21, 5207.22, 5207.23, 5207.29, 5208.10, 5208.21, 5208.22, 5208.23, 5208.29, 5209.10, 5209.21, 5209.22, 5209.23 and 5209.29, for the entry in column (4) occurring against each of them, the entry “12%” shall be substituted;

(21) in Chapter 54,—

(i) in sub-heading Nos. 5402.20, 5402.32, 5402.42, 5402.43, 5402.52 and 5402.62, for the entry in column (4) occurring against each of them, the entry “40%” shall be substituted;

(ii) in sub-heading Nos. 5403.10, 5403.20, 5403.31, 5403.32, 5403.33, 5403.39, 5403.41, 5403.42 and 5403.49, for the entry in column (4) occurring against each of them, the entry “20%” shall be substituted;

(iii) in sub-heading Nos. 5406.10, 5406.21, 5406.22, 5406.23, 5406.29, 5407.10, 5407.21, 5407.22, 5407.23 and 5407.29, for the entry in column (4) occurring against each of them, the entry “12%” shall be substituted;

(22) in Chapter 55,—

(i) in NOTE 2, for the figures and word “55.09 and 55.10”, the figures and word “55.08, 55.09 and 55.10”, shall be substituted;

(ii) in sub-heading Nos. 5511.10, 5511.21, 5511.22, 5511.23, 5511.29, 5512.10, 5512.21, 5512.22, 5512.23, 5512.29, 5513.10, 5513.21, 5513.22, 5513.23, 5513.29, 5514.10, 5514.21, 5514.22, 5514.23 and 5514.29, for the entry in column (4) occurring against each of them, the entry “12%” shall be substituted;

(23) in Chapter 57; after NOTE 2, the following NOTE shall be inserted, namely:—

“3. For the purpose of heading No. 57.02, the term ‘machines’ shall not include manually operated implements, used independently by hand, such as hooking guns, tufting guns and knitting guns.”;

(24) in Chapter 58,—

(i) in heading No. 58.04, for the entry in column (3), the following entry shall be substituted, namely:—

“TULLES AND OTHER NET FABRICS, NOT INCLUDING WOVEN, KNITTED OR CROCHETED FABRICS; LACE IN THE PIECE, IN STRIPS OR IN MOTIFS, OTHER THAN FABRICS OF HEADING No. 60.02”;

(ii) in sub-heading Nos. 5801.21, 5801.22, 5801.31, 5801.32, 5802.21, 5802.22, 5802.31, 5802.32, 5806.31 and 5806.32, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(iii) in sub-heading Nos. 5802.51, 5802.52, 5804.11, 5804.12 and 5806.10, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(iv) in sub-heading Nos. 5807.10 and 5807.90, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;

(25) in Chapter 59,—

(i) in NOTE 4, for clauses (c) and (d), the following clause shall be substituted, namely:—

"(c) Fabrics composed of parallel textile yarns agglomerated with rubber, irrespective of their weight per square metre.

This heading does not, however, apply to plates, sheets or strip of cellular rubber, combined with textile fabric, where the textile fabric is present merely for reinforcing purposes (Chapter 49), or textile product of heading No. 58.10.";

(ii) in NOTE 7, in clause (a), for sub-clause (i), the following sub-clause shall be substituted, namely:—

"(i) Textile fabrics, felt and felt-lined woven fabrics, coated, covered or laminated with rubber, leather or other material, of a kind used for card clothing, and similar fabrics of a kind used for other technical purposes, including narrow fabrics made of velvet impregnated with rubber, for covering weaving spindles (weaving beams);";

(iii) in sub-heading Nos. 5906.10, 5906.91 and 5906.99, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;

(iv) in heading No. 59.10, for the entry in column (3), the following entry shall be substituted, namely:—

"TRANSMISSION OR CONVEYOR BELTS OR BELTING, OF TEXTILE MATERIAL, WHETHER OR NOT IMPREGNATED, COATED, COVERED OR LAMINATED WITH PLASTICS, OR REINFORCED WITH METAL OR OTHER MATERIAL";

(v) in sub-heading No. 5911.10, for the entry in column (3), the following entry shall be substituted, namely:—

"Textile fabrics, felt and felt-lined woven fabrics, coated, covered or laminated with rubber, leather or other material, of a kind used for card clothing, and similar fabrics of a kind used for other technical purposes, including narrow fabrics made of velvet impregnated with rubber, for covering weaving spindles (weaving beams)";

(26) in Chapter 60,—

(i) in sub-heading Nos. 6001.11, 6001.12, 6001.21, 6001.22, 6001.91, 6001.92, 6002.30, 6002.42, 6002.43, 6002.92 and 6002.93, for the entry in column (4) occurring against each of them, the entry "12%" shall be substituted;

(ii) in sub-heading No. 6002.20, for the entry in column (4), the entry "15%" shall be substituted;

(27) in Chapter 62, for the entry in column (4) occurring against sub-heading No. 6202.00, the entry "Nil" shall be substituted;

(28) in Chapter 66, in sub-heading Nos. 6601.00 and 6602.00, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;

(29) in Chapter 68, in sub-heading Nos. 6804.10, 6804.20, 6804.30 and 6804.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(30) in Chapter 69, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 6903.10, 6906.10 and 6908.90), the entry "15%" shall be substituted.

(31) in Chapter 70,—

- (i) in sub-heading Nos. 7012.10 and 7013.10, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;
- (ii) in sub-heading No. 7015.00, for the entry in column (4), the entry "10%" shall be substituted;
- (32) in Chapter 71, in sub-heading Nos. 7101.50 and 7101.60, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;
- (33) in Chapter 84,—
- (i) in sub-heading No. 8427.00, for the entry in column (4), the entry "15%" shall be substituted;
- (ii) in sub-heading Nos. 8432.00, 8433.00, 8436.00 and 8437.00, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;
- (iii) in sub-heading No. 8476.11, for the entry in column (4), the entry "20%" shall be substituted;
- (34) in Chapter 85,—
- (i) in sub-heading No. 8521.00, for the entry in column (4), the entry "15%" shall be substituted;
- (ii) in sub-heading No. 8523.12, for the entry in column (4), the entry "Nil" shall be substituted;
- (iii) in sub-heading No. 8533.00, for the entry in column (4), the entry "15%" shall be substituted;
- (35) in Chapter 87, for the entry in column (4) occurring against sub-heading No. 8707.00, the entry "20%" shall be substituted;
- (36) in Chapter 88, for the entry in column (4) occurring against all the sub-heading Nos., the entry "Nil" shall be substituted;
- (37) in Chapter 90, in sub-heading Nos. 9018.00, 9019.00, 9020.00 and 9021.00, for the entry in column (4) occurring against each of them, the entry "5%" shall be substituted;
- (38) in Chapter 94, for the entry in column (4) occurring against sub-heading No. 9406.00, the entry "10%" shall be substituted;
- (39) in Chapter 95, in sub-heading Nos. 9501.00, 9502.00 and 9503.00, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;
- (40) in Chapter 96,—
- (i) in sub-heading Nos. 9603.00, 9609.00 and 9615.00, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;
- (ii) in sub-heading No. 9617.00, for the entry in column (4), the entry "10%" shall be substituted.

PART II

Heading No.	Sub-heading No.	Description of Goods	Rate of duty
(1)	(2)	(3)	(4)

In the Schedule to the Central Excise Tariff Act,—

(1) in Chapter 19, in heading No. 19.01, for sub-heading No. 1901.90 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—

	“ - Other:	
1901.91	- - Malt extract	20%
1901.92	- - Food preparations containing malt or malt extract or cocoa powder in any proportion	20%—
1901.99	- - Other	Nil”;

(2) in Chapter 21, in heading No. 21.08, for sub-heading No. 2108.90 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—

	“ - Other:	
2108.91	- - Not bearing a brand name	Nil
2108.99	- - Other	20%”;

(3) in Chapter 22, for the heading Nos. 22.01 and 22.02 and the entries relating thereto, the following shall be substituted, namely:—

“22.01	WATERS, INCLUDING NATURAL OR ARTIFICIAL MINERAL WATERS AND AERATED WATERS, NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER NOR FLAVOURED; ICE	
	- Waters, including natural or artificial mineral waters:	Nil
2201.11	- - Not bearing a brand name	15%
2201.19	- - Other	40%
2201.20	- Aerated waters	Nil
2201.90	- Other	Nil
22.02	WATERS, INCLUDING MINERAL WATERS AND AERATED WATERS, CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR FLAVOURED; OTHER NON-ALCOHOLIC BEVERAGES, NOT INCLUDING FRUIT OR VEGETABLE JUICES OF HEADING NO. 20.01	
	- Waters, including mineral waters:	Nil
2201.11	- - Not bearing a brand name	15%
2202.19	- - Other	40%
2202.20	- Aerated waters	Nil
2202.30	- Soya milk, whether or not sweetened or flavoured, and fruit pulp based drinks	Nil
	- Other :	Nil
2202.91	- - Not bearing a brand name	10%”;
2202.99	- - Other	

(4) in Chapter 24,—

(i) for heading No. 24.01 and the entries relating thereto, the following shall be substituted, namely:—

“24.01	UNMANUFACTURED TOBACCO ; TOBACCO REFUSE	
2401.10	- Not bearing a brand name	Nil
2401.90	- Other	40%”;

(1)	(2)	(3)	(4)
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(ii) for heading No. 24.03 and the entries relating thereto, the following shall be substituted, namely:—

"24.03		CIGARETTES AND CIGARILLOS OF TOBACCO OR OF TOBACCO SUBSTITUTES	
		Cigarettes of tobacco :	
2403.11	--	Other than filter cigarettes, of length not exceeding 60 millimetres	Rs. 51 per thousand
2403.12	--	Other than filter cigarettes, of length exceeding 60 millimetres but not exceeding 70 millimetres	Rs. 214 per thousand
2403.13	--	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 70 millimetres	Rs. 292 per thousand
2403.14	--	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 85 millimetres	Rs. 544 per thousand
2403.15	--	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 75 millimetres but not exceeding 85 millimetres	Rs. 728 per thousand
2403.19	--	Other	Rs. 1000 per thousand
2403.20	--	Cigarettes of tobacco substitutes	Rs. 1000 per thousand
		Cigarillos:	
2403.31	--	Of tobacco	Nil
2403.32	--	Of tobacco substitutes	Nil";

(iii) for heading No. 24.04 and the entries relating thereto, the following shall be substituted, namely:—

"24.04		OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES; HOMOGENISED OR 'RECONSTITUTED' TOBACCO; TOBACCO EXTRACTS AND ESSENCES	
2404.10	-	Smoking mixtures for pipes and cigarettes	225%
2404.20	-	Cut tobacco	Rs. 50 per Kilogram
		Biris :	
2404.31	--	Other than paper rolled biris, manufactured without the aid of machines	Rs. 3.85 per thousand
2404.39	--	Other	Rs. 8.60 per thousand
2404.40	-	Chewing tobacco and preparations containing chewing tobacco	40%
2404.50	-	Snuff of tobacco and preparations containing snuff of tobacco in any proportion	40%
		Other :	
2404.91	--	Not bearing a brand name	Nil
2404.99	--	Other	40%";

(1)	(2)	(3)	(4)
	(5) in Chapter 27, after sub-heading No. 2710.14 and the entries relating thereto, the following sub-heading and the entries relating thereto shall be inserted, namely:—		
	"2710.15	- - Natural Gasoline Liquid	15%";
	(6) in Chapter 28,—		
	(i) for heading No. 28.04 and the entries relating thereto, the following shall be substituted, namely :—		
"28.04	HYDROGEN, RARE GASES AND OTHER NON-METALS		
	- Oxygen (including liquified or solidified gas):		
	2804.11	- - Medicinal grade	5%
	2804.19	- - Other	20%
	2804.90	- Other	20%";
	(ii) for heading No. 28.33 and the entries relating thereto, the following shall be substituted, namely:—		
"28.33	SULPHATES; ALUMS; PEROXOSULPHATES (PERSULPHATES)		
	2833.10	- Copper Sulphate	10%
	2833.20	- Agricultural grade zinc sulphate intended for use as micronutrient	Nil
	2833.90	- Other	20%";
	(iii) for heading No. 28.47 and the entries relating thereto, the following shall be substituted, namely:—		
"28.47	HYDROGEN PEROXIDE, WHETHER OR NOT SOLIDIFIED WITH UREA		
	- Hydrogen peroxide:		
	2847.11	- - Medicinal grade	5%
	2847.19	- - Other	20%
	2847.90	- Other	20%";
	(iv) for heading No. 28.51 and the entries relating thereto, the following shall be substituted, namely:—		
"28.51	OTHER INORGANIC COMPOUNDS (INCLUDING DISTILLED OR CONDUCTIVITY WATER AND WATER OF SIMILAR PURITY); LIQUID AIR (WHETHER OR NOT RARE GASES HAVE BEEN REMOVED); COMPRESSED AIR; AMALGAMS, OTHER THAN AMALGAMS OF PRECIOUS METALS		
	2851.10	- Compressed air	Nil
	2851.90	- Other	20%";
	(7) in Chapter 29, for heading No. 29.25 and the entries relating thereto, the following shall be substituted, namely:—		
"29.25	CARBOXYAMIDE-FUNCTION COMPOUNDS (INCLUDING SACCHARIN AND ITS SALTS) AND IMINE-FUNCTION COMPOUNDS		
	2925.10	- Saccharin and its salts	10%
	2925.90	- Other	20%";
	(8) in Chapter 30, in heading No. 30.03, for sub-heading No. 3003.30 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—		
	"- Medicaments, including those used in Ayurvedic, Unani, Siddha, Homoeopathic or Bio-chemic systems:		
	3003.31	- Manufactured exclusively in accordance with the formulae described in the authoritative books specified in the First Schedule to the Drugs and Cosmetics Act, 1940 (23 of 1940) or Homoeopathic Pharmacopoeia of India or the United States of America or the United Kingdom or the German Homoeopathic Pharmacopoeia, as the case	Nil

(1)	(2)	(3)	(4)
		may be, and sold under the name as specified in such books or pharmacopoeia	
	3003.32	-- Medicaments (including veterinary medicaments) used in Bio-chemic system and not bearing a brand name	Nil
	3003.39	-- Other	10%";

(9) in Chapter 33,—

(i) for sub-heading No. 3305.90 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—

	"- Other:	
3305.91	-- Hair fixer	20%
3305.99	-- Other	40%";

(ii) for heading No. 33.06 and the entries relating thereto, the following shall be substituted, namely:—

"33.06

PREPARATIONS FOR ORAL OR DENTAL HYGEINE, INCLUDING DENTIFRICES (FOR EXAMPLE, TOOTH PASTE AND TOOTH POWDER) AND DENTURE FIXATIVE PASTES AND POWDERS

3306.10	- Tooth powder and tooth paste	10%
3306.90	- Other	20%";

(iii) for sub-heading No. 3307.30 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—

	"- Perfumed bath salts and other bath preparations:	
3307.31	-- Bath oil (thailam)	20%
3307.39	-- Other	40%";

(10) in Chapter 34,—

(i) for sub-heading No. 3401.10 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—

	"- Soap in any form:	
3401.11	-- Soap, other than for toilet use, whether or not containing medicament or disinfectant	10%
3401.12	-- Soap, in or in relation to the manufacture of which, no process has been carried on with the aid of power or of steam for heating	Nil
3401.19	-- Other	20%";

(ii) for heading No. 34.03 and the entries relating thereto, the following shall be substituted, namely:—

"34.03

LUBRICATING PREPARATIONS (INCLUDING CUTTING-OIL PREPARATIONS, BOLT OR NUT RELEASE PREPARATIONS, ANTI-RUST OR ANTI-CORROSION PREPARATIONS AND MOULD RELEASE PREPARATIONS BASED ON LUBRICANTS) AND PREPARATIONS OF A KIND USED FOR THE OIL OR GREASE TREATMENT OF TEXTILE MATERIALS, LEATHER, FUR SKINS OR OTHER MATERIALS, BUT EXCLUDING PREPARATIONS CONTAINING, AS BASIC CONSTITUENTS, 70% OR MORE BY WEIGHT OF PETROLEUM OILS OR OF OILS OBTAINED FROM BITUMENOUS MINERALS

(1)	(2)	(3)	(4)
	3403.10	- Lubricating preparations (including cutting-oil preparations, bolt or nut release preparations, anti-rust or anti-corrosion preparations and mould release preparations based on lubricants)	15%
	3403.90	- Other	20%";
(iii) for heading No. 34.06 and the entries relating thereto, the following shall be substituted, namely:—			
"34.06		CANDLES, TAPERS AND THE LIKE	
	3406.10	- Candles	Nil
	3406.90	- Other	20%";
(11) in Chapter 38, for heading No. 38.08 and the entries relating thereto, the following shall be substituted, namely:—			
"38.08		INSECTICIDES, RODENTICIDES, FUNGICIDES, HERBICIDES, ANTI-SPROUTING PRODUCTS AND PLANT GROWTH REGULATORS, DISINFECTANTS AND SIMILAR PRODUCTS, PUT UP IN FORMS OR PACKINGS FOR RETAIL SALE OR AS PREPARATIONS OR ARTICLES (FOR EXAMPLE, SULPHUR-TREATED BANDS, WICKS AND CANDLES, AND FLY-PAPERS)	
	3808.10	- Insecticides, fungicides, herbicides, weedicides and pesticides	10%
	3808.20	- Plant growth regulators	10%
	3808.90	- Other	20%";
(12) in Chapter 39, for heading No. 39.16 and the entries relating thereto, the following shall be substituted, namely:—			
"39.16		MONOFILAMENT OF WHICH ANY CROSS-SECTIONAL DIMENSION EXCEEDS 1 MM, RODS, STICKS AND PROFILE SHAPES, WHETHER OR NOT SURFACE-WORKED BUT NOT OTHERWISE WORKED, OF PLASTICS	
	3916.10	- Plastic canes	Nil
	3916.90	- Other	25%";
(13) in Chapter 40, for heading No. 40.05 and the entries relating thereto, the following shall be substituted, namely:—			
"40.05	4005.00	COMPOUNDED RUBBER, UNVULCANISED, IN PRIMARY FORMS OR IN PLATES, SHEETS OR STRIP, OTHER THAN THE FORMS AND ARTICLES OF UNVULCANISED RUBBER DESCRIBED IN HEADING No. 40.06	20%";
(14) in Chapter 44, for heading No. 44.04 and the entries relating thereto, the following shall be substituted, namely:—			
"44.04		VENEER SHEETS AND SHEETS FOR PLYWOOD (WHETHER OR NOT SLICED) AND OTHER WOOD SAWN LENGTHWISE, SLICED OR PEELED, WHETHER OR NOT PLANED, SANDED OR FINGER-JOINTED, OF A THICKNESS NOT EXCEEDING 6 M.M.	
	4404.10	- Veneer sheets, for match boxes and match splints	Nil
	4404.90	- Other	20%";
(15) in Chapter 48, for heading No. 48.19 and the entries relating thereto, the following shall be substituted, namely:—			
"48.19		CARTONS (INCLUDING FLATTENED OR FOLDED CARTONS), BOXES (INCLUDING FLATTENED OR FOLDED BOXES), CASES, BAGS AND OTHER PACKING CONTAINERS, OF PAPER, PAPERBOARD, CELLULOSE	

(1)	(2)	(3)	(4)
		WADDING OR WEBS OF CELLULOSE FIBRES, WHETHER IN ASSEMBLED OR UNASSEMBLED CONDITION; BOX FILES, LETTER TRAYS, AND SIMILAR ARTICLES, OF PAPER OR PAPERBOARD OF A KIND USED IN OFFICES, SHOPS OR THE LIKE	
		- Cartons, boxes, cases, bags and other packing containers :	Nil
4819.11		- - Cartons, boxes, containers and cases, intended for the packing of match sticks	Nil
4819.12		- - Cartons, boxes, containers and cases, of corrugated paper or paperboard	10%
4819.19		- - Other	20%
4819.90		- Other	

(16) in Chapter 51, in heading No. 51.06, for sub-heading Nos. 5106.11, 5106.12 and 5106.90 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—

		- In or in relation to the manufacture of which any process is ordinarily carried on with the aid of power :	
5106.11		- - Yarn of waste wool including shoddy and garnetted stock of wool	5%
5106.12		- - Other yarn containing 85% or more by weight of wool	10%
5106.13		- - Other yarn containing less than 85% by weight of wool	10%
5106.90		- Other	Nil

(17) in Chapter 57, for heading Nos. 57.01, 57.02, 57.03, 57.04 and 57.05 and the entries relating thereto, the following shall be substituted, namely:—

"57.01	5701.00	HAND-MADE CARPETS WHETHER OR NOT ANY MACHINES HAVE BEEN USED TO ACHIEVE BETTER FINISH DURING PRE-WEAVING OR POST-WEAVING OPERATIONS	Nil
57.02		CARPETS AND OTHER TEXTILE FLOOR COVERINGS (OTHER THAN THOSE OF HEADING No. 57.01), KNOTTED, WOVEN, TUFTED, OR FLOCKED, WHETHER OR NOT MADE UP	
		- In or in relation to the manufacture of which any process is ordinarily carried on with the aid of machines:	
	5702.11	- - Of coconut fibres (coir)	Nil
	5702.12	- - Of jute	5%
	5702.19	- - Other	30%
	5702.90	- Other	Nil
57.03		OTHER CARPETS AND OTHER TEXTILE FLOOR COVERINGS, WHETHER OR NOT MADE UP	
	5703.10	- Of coconut fibres (coir)	Nil
	5703.20	- Of jute	5%
	5703.90	- Other	30%

(18) in Chapter 58, for heading No. 58.08, and the entries relating thereto, the following shall be substituted, namely:—

"58.08

BRAIDS IN THE PIECE; ORNAMENTAL TRIMMINGS IN THE PIECE, WITHOUT EMBROIDERY, OTHER THAN KNITTED OR CROCHETED; TASSELS, POMPONS AND SIMILAR ARTICLES

(1)	(2)	(3)	(4)
	5808.10	- Not subjected to any process	Nil
	5808.90	- Other	15%";
(19) in Chapter 59, in heading No. 59.07, for sub-heading No. 5907.90 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—			
	"5907.30	- Other, in or in relation to the manufacture of which no process is ordinarily carried on with the aid of power	Nil
	5907.90	- Other	30%";
(20) in Chapter 63, for heading No. 63.07 and the entries relating thereto, the following shall be substituted, namely:—			
	"63.07	OTHER MADE-UP ARTICLES NOT ELSEWHERE SPECIFIED	
	6307.10	- Indian National Flag	Nil
	6307.90	- Other	10%";
(21) in Chapter 70, in heading No. 70.11, for sub-heading No. 7011.10 and the entries relating thereto, the following sub-heading and the entries shall be substituted, namely:—			
	"7011.10	- Glasses for corrective spectacles and flint buttons	Nil";
(22) in Chapter 73,—			
(i) for heading No. 73.19 and the entries relating thereto, the following shall be substituted, namely:—			
"73.19	SEWING NEEDLES, KNITTING NEEDLES, BODKINS, CROCHET HOOKS, EMBROIDERY STILETTOS, AND SIMILAR ARTICLES, FOR USE IN THE HAND, OF IRON STEEL; SAFETY PINS AND OTHER PINS OF IRON OR STEEL, NOT ELSEWHERE SPECIFIED OR INCLUDED		
	7319.10	- Sewing Needles	Nil
	7319.90	- Other	15%";
(ii) for heading No. 73.23 and the entries relating thereto, the following shall be substituted, namely:—			
"73.23	TABLE, KITCHEN OR OTHER HOUSEHOLD ARTICLES AND PARTS THEREOF, OF IRON OR STEEL; IRON OR STEEL WOOL; POT SCOURERS AND SCOURING OR POLISHING PADS, GLOVES AND THE LIKE OF IRON OR STEEL		
	7323.10	- Pressure Cookers	10%
	7323.90	- Other	15%";
(23) in Chapter 76, for heading No. 76.15 and the entries relating thereto, the following shall be substituted, namely:—			
"76.15	TABLE, KITCHEN OR OTHER HOUSEHOLD ARTICLES AND PARTS THEREOF, OF ALUMINIUM; POT SCOURERS AND SCOURING OR POLISHING PADS, GLOVES AND THE LIKE, OF ALUMINIUM; SANITARY WARE AND PARTS THEREOF, OF ALUMINIUM		
	7615.10	- Table, Kitchen or other household articles and parts thereof; pot scourers and scouring or polishing pads, gloves and the like	15%
	7615.20	- Pressure Cookers	10%
	7615.30	- Sanitary ware and parts thereof	15%";
(24) in Chapter 84,—			

(1)	(2)	(3)	(4)
-----	-----	-----	-----

(i) in heading No. 84.13, for sub-heading Nos. 8413.10 and 8413.90 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—

	- Power driven pumps primarily designed for handling water :	
8413.11	- Centrifugal pumps (horizontal or vertical)	Nil
8413.12	- Deep tube-well turbine pumps	Nil
8413.13	- Submersible pumps	Nil
8413.14	- Axial flow and mixed flow vertical pumps	Nil
8413.19	- Other	10%
8413.20	- Hand pumps	Nil
8413.80	- Other	10%
	Parts :	
8413.91	- Of hand pumps for handling water	Nil
8413.99	- Other	15%";

(ii) in heading No. 84.14, for sub-heading Nos. 8414.10, 8414.20, 8414.80, 8414.91 and 8414.99 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—

"8414.10	- Bicycle Pumps	Nil
8414.20	- Hand Pumps	Nil
8414.30	- Gas compressors of a kind used in refrigerating and air-conditioning appliances and machinery	40%
8414.40	- Electric fans	10%
8414.80	- Other	10%
	- Parts and accessories :	
8414.91	- Of goods covered by sub-heading No. 8414.10	Nil
8414.92	- Of goods covered by sub-heading No. 8414.30	40%
8414.99	- Other	15%";

(iii) for heading No. 84.18 and the entries relating thereto, the following shall be substituted, namely:—

	REFRIGERATORS, FREEZERS AND OTHER REFRIGERATING OR FREEZING EQUIPMENT, ELECTRIC OR OTHER; HEAT PUMPS OTHER THAN AIR-CONDITIONING MACHINES OF HEADING No. 84.15	
8418.10	- All goods other than parts	20%
8418.90	- Parts	40%";

(iv) for heading No. 84.19 and the entries relating thereto, the following shall be substituted, namely:—

	MACHINERY, PLANT OR LABORATORY EQUIPMENT, WHETHER OR NOT ELECTRICALLY HEATED, FOR THE TREATMENT OF MATERIALS BY A PROCESS INVOLVING A CHANGE OF TEMPERATURE SUCH AS HEATING, COOKING, ROASTING, DISTILLING, RECTIFYING, STERILISING, PASTEURISING, STEAMING, DRYING, EVAPORATING, VAPORISING, CONDENSING OR COOLING, OTHER THAN MACHINERY OR PLANT OF A KIND USED FOR DOMESTIC PURPOSES; INSTANTANEOUS OR STORAGE WATER HEATERS, NON ELECTRIC	
8419.10	- Refrigeration or air-conditioning machinery	40%
8419.80	- Other	10%
	- Parts:	
8419.91	- Of goods covered by sub-heading No. 8419.10	40%
8419.99	- Other	15%";

(1)	(2)	(3)	(4)
(v) in heading No. 84.22, for sub-heading No. 8422.90 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—			
"8422.80	- Other		10%
8422.90	- Parts		15%";
(vi) in heading No. 84.24, for sub-heading Nos. 8424.10 and 8424.90 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—			
"8424.10	- Mechanical appliances of a kind used in agriculture or horticulture		Nil
8424.80	- Other		10%
	- Parts		
8424.91	- Of goods covered by sub-heading No. 8424.10		Nil
8424.99	- Other		15%";
(vii) for heading No. 84.28 and the entries relating thereto, the following shall be substituted, namely:—			
"84.28	OTHER LIFTING, HANDLING, LOADING OR UNLOADING MACHINERY (FOR EXAMPLE, LIFTS, ESCALATORS, CONVEYORS, TELEFERICS)		
8428.10	- Lifts and escalators		15%
8428.90	- Other		10%";
(viii) for heading No. 84.69 and the entries relating thereto, the following shall be substituted, namely:—			
"84.69	TYPEWRITERS AND WORD-PROCESSING MACHINES		
8469.10	- Braille typewriters		Nil
8469.90	- Other		15%";
(ix) in heading No. 84.81, for sub-heading Nos. 8481.10, 8481.80, 8481.91 and 8481.99 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—			
"8481.10	- Expansion valves and Solenoid valves for refrigerating and air-conditioning appliances and machinery		40%
8481.20	- Bicycle valves		Nil
8481.80	- Other		15%
	- Parts		
8481.91	- Of goods covered by sub-heading No. 8481.10		40%
8481.92	- Of goods covered by sub-heading No. 8481.20		Nil
8481.99	- Other		15%";
(25) in Chapter 85,—			
(i) for heading No. 85.24 and the entries relating thereto, the following shall be substituted, namely:—			
"85.24	RECORDS, TAPES AND OTHER RECORDED MEDIA FOR SOUND OR OTHER SIMILARLY RECORDED PHENOMENA, INCLUDING MATRICES AND MASTERS FOR THE PRODUCTION OF RECORDS, BUT EXCLUDING PRODUCTS OF CHAPTER 37		
8524.10	- Gramophone records		15%
8524.20	- Computer software		Nil
	- Magnetic tapes :		
8524.31	- - Audio tapes in any form		20%
8524.32	- - Audio cassettes		Nil
8524.33	- - Video tapes in any form		20%
8524.34	- - Video cassettes		20%
8524.39	- - Other		20%
8524.40	- Magnetic discs		20%
8524.90	- Other		20%";
(ii) for heading No. 85.43 and the entries relating thereto, the following shall be substituted, namely:—			
"85.43	ELECTRICAL MACHINES AND APPARATUS.		

(1)	(2)	(3)	(4)
		HAVING INDIVIDUAL FUNCTIONS, NOT SPECIFIED OR INCLUDED ELSEWHERE IN THIS CHAPTER	
	8543.10	- Machinery for the production of a commodity	10%
	8543.90	- Other	20%";

(iii) for heading No. 85.44 and the entries relating thereto, the following shall be substituted, namely :—

"85.44		INSULATED (INCLUDING ENAMELLED OR ANODISED) WIRE, CABLE (INCLUDING CO-AXIAL CABLE) AND OTHER INSULATED ELECTRIC CONDUCTORS, WHETHER OR NOT FITTED WITH CONNECTORS; OPTICAL FIBRE CABLES, MADE UP OF INDIVIDUALLY SHEATHED FIBRES, WHETHER OR NOT ASSEMBLED WITH ELECTRIC CONDUCTORS OR FITTED WITH CONNECTORS	
	8544.10	- Fibre optic cables	20%
	8544.90	- Other	25%";

(26) in Chapter 87,—

(i) for heading Nos. 87.01, 87.02 and 87.03 and the entries relating thereto, the following shall be substituted, namely:—

"87.01		TRACTORS (OTHER THAN TRACTORS OF HEADING No. 87.09)	
	8701.10	- Tractors of engine capacity not exceeding 1800cc	Nil
	8701.90	- Other	10%
87.02		MOTOR VEHICLES PRINCIPALLY DESIGNED FOR THE TRANSPORT OF MORE THAN SIX PERSONS, EXCLUDING THE DRIVER	
	8702.10	- Motor vehicles principally designed for the transport of more than six persons, but not more than twelve persons, excluding the driver	20%
	8702.90	- Other	15%
87.03	8703.00	MOTOR CARS AND OTHER MOTOR VEHICLES PRINCIPALLY DESIGNED FOR THE TRANSPORT OF NOT MORE THAN SIX PERSONS, EXCLUDING THE DRIVER, INCLUDING RACING CARS	40%";

(ii) in heading No. 87.06, for sub-heading Nos. 8706.10 and 8706.20 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely :—

		- For the vehicles of heading No. 87.01 :	
	8706.11	- - For the vehicles of sub-heading No. 8701.10	Nil
	8706.19	- - For the vehicles of sub-heading No. 8701.90	10%
		- For the vehicles of heading No. 87.02 :	
	8706.21	- - For the vehicles of sub-heading No. 8702.10	20%
	8706.29	- - For the vehicles of sub-heading No. 8702.90	15%";

(iii) for heading No. 87.11 and the entries relating thereto, the following shall be substituted, namely :—

"87.11		MOTORCYCLES (INCLUDING SCOOTERS AND MOPEDS) AND CYCLES FITTED WITH AN AUXILIARY MOTOR, WITH OR WITHOUT SIDE-CARS; SIDE-CARS	
	8711.10	- Two-wheeled motor vehicles of engine capacity not exceeding 75 cubic centimetres	15%
	8711.20	- Two-wheeled motor vehicles of engine capacity exceeding 75 cubic centimetres	25%
	8711.30	- Side-cars	15%

(1)	(2)	(3)	(4)
-----	-----	-----	-----

8711.90

Other

25%";

(27) in Chapter 90,—

(i) for heading No. 90.01 and the entries relating thereto, the following shall be substituted, namely:—

"90.01

OPTICAL FIBRES AND OPTICAL FIBRE
BUNDLES; OPTICAL FIBRE CABLES
OTHER THAN THOSE OF HEADING No. 85.44;
SHEETS AND PLATES OF POLARISING
MATERIAL; LENSES (INCLUDING CONTACT
LENSES), PRISMS, MIRRORS AND OTHER OPTICAL
ELEMENTS, OF ANY MATERIAL, UNMOUNTED,
OTHER THAN SUCH ELEMENTS OF GLASS
NOT OPTICALLY WORKED

9001.10

- Spectacle lenses, intraocular lenses and contact lenses

Nil

9001.90

- Other

20%";

(ii) for heading No. 90.17 and the entries relating thereto, the following shall be substituted, namely:—

"90.17

DRAWING, MARKING-OUT OR MATHEMATICAL CALCULATING
INSTRUMENTS (FOR EXAMPLE, DRAFTING MACHINES,
PANTOGRAPHS, PROTRACTORS, DRAWING SETS,
SLIDE RULES, DISC CALCULATORS); INSTRUMENTS
FOR MEASURING LENGTH, FOR USE IN THE HAND
(FOR EXAMPLE, MEASURING RODS AND TAPES,
MICROMETERS, CALLIPERS), NOT SPECIFIED OR INCLUDED
ELSEWHERE IN THIS CHAPTER

9017.10

- Drawing and mathematical instruments

Nil

9017.90

- Other

10%";

(28) in Chapter 91, for heading Nos. 91.01 and 91.02 and the entries relating thereto, the following shall be substituted, namely:—

"91.01

WRIST-WATCHES, POCKET-WATCHES AND OTHER
WATCHES, INCLUDING STOP-WATCHES, WITH CASE OF
PRECIOUS METAL OR OF METAL CLAD WITH PRECIOUS
METAL

9101.10

- Braille watches

Nil

9101.90

- Other

10%

91.02

WRIST-WATCHES, POCKET-WATCHES AND OTHER
WATCHES, INCLUDING STOP-WATCHES, OTHER
THAN THOSE OF HEADING No. 91.01

9102.10

- Braille watches

Nil

9102.90

- Other

10%";

(29) in Chapter 96, for heading No. 96.06 and the entries relating thereto, the following shall be substituted, namely:—

"96.06

BUTTONS, PRESS-FASTENERS, SNAP-FASTENERS AND
PRESS-STUDS, BUTTON MOULDS AND OTHER PARTS
OF THESE ARTICLES; BUTTON BLANKS

9606.10

- Buttons and button blanks

Nil

9606.90

- Other

20%";

THE FOURTH SCHEDULE

(See section 83)

PART I

In the First Schedule to the Additional Duties of Excise Act,—

(1) in sub-heading No. 1701.31, for the entry in column (4), the entry "Rs. 21 per quintal" shall be substituted;

(2) in sub-heading No. 1701.39, for the entry in column (4), the entry "Rs. 37 per quintal" shall be substituted;

(3) in sub-heading Nos. 5207.21, 5207.22, 5207.23 and 5207.29, for the entry in column (4), occurring against each of them, the entry "10%" shall be substituted;

(4) in sub-heading Nos. 5208.21, 5208.22, 5208.23 and 5208.29, for the entry in column (4), occurring against each of them, the entry "10%" shall be substituted;

(5) in sub-heading Nos. 5209.21, 5209.22, 5209.23 and 5209.29, for the entry in column (4), occurring against each of them, the entry "10%" shall be substituted;

(6) in sub-heading Nos. 5406.21, 5406.22, 5406.23 and 5406.29, for the entry in column (4), occurring against each of them, the entry "10%" shall be substituted;

(7) in sub-heading Nos. 5407.21, 5407.22, 5407.23 and 5407.29, for the entry in column (4), occurring against each of them, the entry "10%" shall be substituted;

(8) in sub-heading Nos. 5511.21, 5511.22, 5511.23 and 5511.29, for the entry in column (4), occurring against each of them, the entry "10%" shall be substituted;

(9) in sub-heading Nos. 5512.21, 5512.22, 5512.23 and 5512.29, for the entry in column (4), occurring against each of them, the entry "10%" shall be substituted;

(10) in sub-heading Nos. 5513.21, 5513.22, 5513.23 and 5513.29, for the entry in column (4), occurring against each of them, the entry "10%" shall be substituted;

(11) in sub-heading Nos. 5514.21, 5514.22, 5514.23 and 5514.29, for the entry in column (4), occurring against each of them, the entry "10%" shall be substituted;

(12) in sub-heading Nos. 5801.22 and 5801.32, for the entry in column (4), occurring against each of them, the entry "10%" shall be substituted;

(13) in sub-heading Nos. 5802.22, 5802.32 and 5802.52, for the entry in column (4), occurring against each of them, the entry "10%" shall be substituted;

(14) in heading No. 58.04,—

(i) for the entry in column (3), the following entry shall be substituted, namely:—

"LACE IN THE PIECE, IN STRIPS OR IN MOTIFS, OTHER THAN FABRICS OF HEADING No. 60.02";

(ii) in sub-heading Nos. 5804.11 and 5804.12, for the entry in column (4), occurring against each of them, the entry "5%" shall be substituted;

(15) in sub-heading Nos. 5901.10 and 5901.90, for the entry in column (4), occurring against each of them, the entry "5%" shall be substituted;

(16) in sub-heading Nos. 6001.11, 6001.12, 6001.21, 6001.22, 6001.91 and 6001.92, for the entry in column (4), occurring against each of them, the entry "10%" shall be substituted;

(17) in sub-heading Nos. 6002.10 and 6002.20, for the entry in column (4), occurring against each of them, the entry "Nil" shall be substituted;

(18) in sub-heading Nos. 6002.30, 6002.42, 6002.43, 6002.92 and 6002.93, for the entry in column (4), occurring against each of them, the entry "10%" shall be substituted;

PART II

Heading No.	Sub-heading No.	Description of goods	Rate of additional duty
(1)	(2)	(3)	(4)

In the First Schedule to the Additional Duties of Excise Act,—

(1) for heading No. 24.01 and the entries relating thereto, the following shall be substituted, namely:—

"24.01		UNMANUFACTURED TOBACCO; TOBACCO REFUSE	
	2401.10	- Not bearing a brand name	Nil
	2401.90	- Other	10%";

(2) for heading No. 24.03 and the entries relating thereto, the following shall be substituted, namely:—

"24.03		CIGARETTES AND CIGARILLOS OF TOBACCO	
		- Cigarettes of tobacco;	
	2403.11	-- Other than filter cigarettes, of length not exceeding 60 millimetres	Rs. 24 per thousand
	2403.12	-- Other than filter cigarettes, of length exceeding 60 millimetres but not exceeding 70 millimetres	Rs. 101 per thousand
	2403.13	-- Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 70 millimetres	Rs. 138 per thousand
	2403.14	-- Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres	Rs. 256 per thousand
	2403.15	-- Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 75 millimetres but not exceeding 85 millimetres	Rs. 342 per thousand
	2403.19	-- Other	Rs. 350 per thousand
		- Cigarillos:	
	2403.31	-- Of tobacco	Nil";

(3) for heading No. 24.04 and the entries relating thereto, the following shall be substituted, namely:—

"24.04		OTHER MANUFACTURED TOBACCO	
	2404.10	- Smoking mixtures for pipes and cigarettes	75%
	2404.20	- Cut tobacco	Nil
		- Biris:	
	2404.31	-- Other than paper rolled biris, manufactured without the aid of machines	Rs. 1.15 per thousand
	2404.39	-- Other	Rs. 2.50 per thousand
	2404.40	- Chewing tobacco and preparations containing chewing tobacco	10%
	2404.50	- Snuff of tobacco and preparations containing snuff of tobacco in any proportion	10%
		- Other	
	2404.91	-- Not bearing a brand name	Nil
	2404.99	-- Other	10%";

THE FIFTH SCHEDULE

(See section 84)

In the Schedule to the Additional Duties of Excise (Textiles and Textile Articles) Act, against S. No. 7, for the entry in column (2), the following shall be substituted, namely:—

"TULLES AND OTHER NET FABRICS, NOT INCLUDING WOVEN, KNITTED OR CROCHETED FABRICS; LACE IN THE PIECE, IN STRIPS OR IN MOTIFS, OTHER THAN FABRICS OF HEADING No. 60.02".

Sd/—

K. L. MOHANPURIA,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to Government.



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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 27th August, 1918.

No. RP/28/97/Act-2/97/E.—The following Act of Parliament is re-published for general information:—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 8th January, 1997/Pausa 18, 1918 (Saka)

The following Act of Parliament received the assent of the President on the 8th January, 1997 and is hereby published for general information:—

THE MAULANA AZAD NATIONAL URDU UNIVERSITY ACT, 1996

(Act No. 2 of 1997)

(8th January, 1997)

AN ACT

to establish and incorporate a University at the national level mainly to promote and develop Urdu language and to impart vocational and technical education in Urdu medium through conventional teaching and distance education system and to provide for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-seventh year of the Republic of India as follows:—

1. (1) This Act may be called the Maulana Azad National Urdu University Act, 1996.

Short title
and com-
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, and the Statutes made hereunder, unless the context otherwise requires,—

Definitions.

(a) "Academic Council" means the Academic Council of the University;

(b) "academic staff" means such categories of staff as are designated as academic staff by the Ordinances;

(c) "Board of Studies" means the Board of Studies of the University;

(d) "Chancellor", "Vice-Chancellor" and "Pro-Vice-Chancellor" mean, respectively, the Chancellor, Vice-Chancellor and Pro-Vice-Chancellor of the University;

(e) "Court" means the Court of the University;

(f) "Department" means a Department of Studies; and includes a Centre of Studies;

(g) "distance education system" means the system of imparting education through any means of communication, such as broadcasting, telecasting, correspondence courses, seminars, contact programmes or the combination of any two or more of such means;

(h) "employee" means any person appointed by the University and includes teachers and other staff of the University;

(i) "Executive Council" means the Executive Council of the University;

(j) "Finance Committee" means the Finance Committee of the University;

(k) "Hall" means a unit of residence or of corporate life for the students of the University, or of an Institution, maintained by the University;

(l) "Institution" means an academic institution maintained by the University;

(m) "recognised Institution" means an institution of higher learning recognised by the University;

(n) "Regulations" means the Regulations made by any authority of the University under this Act for the time being in force;

(o) "School" means a school of Studies of the University;

(p) "Statutes" and "Ordinances" mean, respectively, the Statutes and Ordinances of the University for the time being in force;

(q) "Teachers of the University" means Professors, Readers, Lecturers and such other persons as may be appointed for imparting instruction or conducting research in the University or in any Institution maintained by the University and who are designated as teachers by the Ordinances;

(r) "University" means the Maulana Azad National Urdu University established and incorporated as a University under this Act.

Establishment
of the
University.

3. (1) There shall be established a University by the name of "Maulana Azad National Urdu University".

(2) The headquarters of the University shall be at Hyderabad.

(3) The first Chancellor and the first Vice-Chancellor and the first members of the Court, the Executive Council and the Academic Council and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of "Maulana Azad National Urdu University".

(4) The University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

Objects of the
University.

4. The objects of the University shall be to promote and develop Urdu language; to impart education and training in vocational and technical subjects through the medium of Urdu, to provide wider access to people desirous of pursuing programmes of higher education and training in Urdu medium through teaching on the Campus as well as at

a distance and to provide focus on women education.

5. The University shall have the following powers, namely:—

Powers of the
University.

(i) to provide for instructions and research in such branches of learning as are relevant for furtherance of the objects of the University;

(ii) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions on the basis of examinations, evaluation or any other method of testing, on persons, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(iii) to organise and to undertake extra-mural studies, training and extension services;

(iv) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(v) to institute Professorships, Readerships, Lecturerships and other teaching or academic positions, required by the University and to appoint persons to such Professorships, Readerships, Lecturerships or other teaching or academic positions;

(vi) to appoint persons working in any other University or organisation as teacher of the University for a specified period;

(vii) to create administrative, ministerial and other posts and to make appointments thereto;

(viii) to co-operate or collaborate or associate with any other University or authority or institution of higher learning in such manner and for such purposes as the University may determine;

(ix) to establish, with the prior approval of the Central Government, such centres and specialised laboratories, within or outside India; as are, in the opinion of the University necessary for the furtherance of its objects;

(x) to institute and award fellowships, scholarships, studentships, medals and prizes;

(xi) to establish and maintain Institutions and Halls;

(xii) to make provision for research and advisory services and for that purpose to enter into such arrangements with other institutions, industrial or other organisations as the University may deem necessary;

(xiii) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other academic staff;

(xiv) to make special arrangements in respect of the residence, discipline and teaching of women students as the University may consider desirable;

(xv) to appoint, on contract or otherwise, visiting Professors, Emeritus Professors, Consultants, Scholars and such other persons who may contribute to the advancement of the objects of the University;

(xvi) to confer autonomous status on a Department in accordance with the Statutes;

(xvii) to determine standards of admission to the University which may include examination, evaluation or any other method of testing;

(xviii) to demand and receive payment of fees and other charges;

(xix) to supervise the residences of the students of the University and to make

arrangements for promoting their health and general welfare;

(xx) to lay down conditions of service of all categories of employees including their code of conduct;

(xxi) to regulate and enforce discipline among the students and the employees and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(xxii) to make arrangements for promoting the health and general welfare of the employees;

(xxiii) to receive benefactions, donations and gifts and to acquire, hold, manage and dispose of any property, movable or immovable, including trust and endowment properties for the purposes of the University;

(xxiv) to borrow, with the approval of the Central Government, on the security of the property of the University, money for the purposes of the University;

(xxv) to organise suitable distance education programmes;

(xxvi) to establish, maintain or recognise Study Centres for the delivery of the distance education system in the manner laid down by the Ordinances;

(xxvii) to provide for the preparation of instructional materials including films, cassettes, tapes, video cassettes and other software in collaboration with various Open Universities and other Institutions dealing with the distance education system;

(xxviii) to devise and implement suitable schemes for providing a base for promotion and dissemination of Urdu and to bring about the essential continuity in education with special reference to the delivery system in distance education consistent with the objectives of the University; and

(xxix) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

Jurisdiction.

6. The jurisdiction of the University shall extend to the whole of India.

University open to all classes, castes and creeds.

7. The University shall be open to persons of either sex and of whatever caste, creed, race or class, and it shall not be lawful for the University to adopt or impose on any person any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any other office therein or to be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof.

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or admission of women, physically handicapped or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes and the Scheduled Tribes.

The Visitor.

8. (1) The President of India shall be the Visitor of the University.

(2) The Visitor may, from time to time, appoint one or more persons to review the work and progress of the University, including Institution managed by it, and to submit a report thereon; and upon receipt of that report the Visitor may, after obtaining the views of the Executive Council thereon through the Vice-Chancellor, take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the University shall be bound to comply with such directions.

(3) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct of the University, its buildings, laboratories and equipment and of any Institution maintained by the University and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration

or finances of the University or Institutions.

(4) The Visitor shall, in every matter referred to in sub-section (3), give notice of his intention to cause an inspection or inquiry to be made to the University and the University shall have the right to make such representations to the Visitor, as it may consider necessary.

(5) After considering the representations, if any, made by the University, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (3).

(6) Where any inspection or inquiry has been caused to be made by the Visitor, the University shall be entitled to appoint a representative who shall have the right to be present and be heard at such inspection or inquiry.

(7) The Visitor may, if the inspection or inquiry is made in respect of the University or any Institution maintained by it, address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon, as the Visitor may be pleased to offer, and on receipt of address made by the Visitor, the Vice-Chancellor shall communicate to the Executive Council, the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(8) The Executive Council shall communicate, through the Vice-Chancellor, to the Visitor such action, if any, as it proposes to take or has been taken upon the result of such inspection or inquiry.

(9) Where the Executive Council does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Executive Council, issue such directions as he may think fit and the Executive Council shall comply with such directions.

(10) Without prejudice to the foregoing provisions of this section, the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with this Act, the Statutes or the Ordinances:

Provided that before making any such order, he shall call upon the Registrar to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, he shall consider the same.

(11) The Visitor shall have such other powers as may be prescribed by the Statutes.

9. The following shall be the officers of the University:—

Officers of
the Uni-
versity.

- (1) the Chancellor;
- (2) the Vice-Chancellor;
- (3) the Pro-Vice-Chancellor;
- (4) the Deans of Schools;
- (5) the Registrar;
- (6) the Finance Officer;
- (7) the Librarian; and

(8) such other officers as may be declared by the Statutes to be officers of the University.

10. (1) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes. The Chancellor.

(2) The Chancellor shall, by virtue of his office, be the Head of the University.

(3) The Chancellor shall, if present, preside at the convocation of the University held for conferring degrees.

The Vice-Chancellor.

11. (1) The Vice-Chancellor shall be appointed by the Visitor in such manner and on such terms and conditions of service as may be prescribed by the Statutes.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority the action taken by him on such matters:

Provided that if the authority concerned is of the opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to appeal against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) The Vice-Chancellor, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the Statutes or the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Visitor whose decision thereon shall be final.

(5) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

The Pro-Vice-Chancellor.

12. The Pro-Vice-Chancellor shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Deans of Schools.

13. Every Dean of a School shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Registrar.

14. (1) The Registrar shall be appointed in such manner as may be prescribed by the Statutes.

(2) The Registrar shall have the power to enter into agreement, sign documents and authenticate records on behalf of the University and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Finance Officer.

15. The Finance Officer shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Librarian.

16. The Librarian shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

Other officers.

17. The manner of appointment and powers and duties of the other officers of the University shall be prescribed by the Statutes.

Authorities of the University.

18. The following shall be the authorities of the University:—

(1) the Court;

(2) the Executive Council;

(3) the Academic Council;

(4) the Board of Studies;

(5) the Finance Committee; and

(6) such other authorities as may be declared by the Statutes to be the authorities of the University.

19. (1) The constitution of the Court and the term of office of its members shall be prescribed by the Statutes. The Court.

(2) Subject to the provisions of this Act, the Court shall have the following powers and functions, namely:—

(a) to review, from time to time, the broad policies and programmes of the University and to suggest measures for the improvement and development of the University;

(b) to advise the Visitor in respect of any matter which may be referred to it for advice; and

(c) to perform such other functions as may be prescribed by the Statutes.

20. (1) The Executive Council shall be the principal executive body of the University. The Executive Council.

(2) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes.

21. (1) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, co-ordinate and exercise general supervision over the academic policies of the University. The Academic Council.

(2) The constitution of the Academic Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes.

22. The constitution, powers and functions of the Board of Studies shall be prescribed by the Statutes. The Board of Studies.

23. The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes. The Finance Committee.

24. The constitution, powers and functions of other authorities, as may be declared by the Statutes to be the authorities of the University, shall be prescribed by the Statutes. Other authorities of the University.

25. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:— Power to make Statutes.

(a) the constitution, powers and functions of the authorities and other bodies of the University, as may be constituted from time to time;

(b) appointment and continuance in office of the members of the said authorities and bodies, filling up of vacancies of members and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(c) the appointment, powers and duties of the officers of the University and their emoluments;

(d) the appointment of teachers and other academic staff and other employees of the University, their emoluments and other conditions of service;

(e) the appointment of teachers, academic staff working in any other University or organisation for specific period for undertaking a joint project;

(f) the conditions of service of employees including provision for pension, insurance and provident fund, the manner of termination of service and disciplinary action;

(g) the principles governing the seniority of service of the employees of the University;

(h) the procedure for arbitration in cases of dispute between employees, or students and the University;

(i) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;

(j) the conferment of autonomous status on an Institution or a Department;

(k) the establishment and abolition of Schools, Departments, Centres, Halls and Institutions;

(l) the conferment of honorary degrees;

(m) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(n) the institution of fellowships, scholarships, studentships, medals and prizes;

(o) the delegation of powers vested in the authorities or officers of the University;

(p) the maintenance of discipline among the employees and students; and

(q) all other matters which by this Act are to be or may be provided for by the Statutes.

Statutes
how to be
made.

26. (1) The first Statutes are those set out in the Schedule.

(2) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (1):

Provided that the Executive Council shall not make, amend or repeal any Statutes affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes and any opinion so expressed shall be considered by the Executive Council:

Provided further that the Executive Council shall not consider to make, amend or repeal any statute relating to the matters provided under clauses (j) and (k) of section 25 except with the prior approval of the Visitor.

(3) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the assent of the Visitor who may assent thereto or withhold assent or remit to the Executive Council for re-consideration in the light of observations, if any, made by him.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

(5) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may make new or additional Statutes or amend or repeal the Statutes referred to in sub-section (1) during the period of three years immediately after the commencement of this Act:

Provided that the Visitor may, on the expiry of the said period of three years, make, within one year from the date of such expiry, such detailed Statutes as he may consider necessary and such detailed Statutes shall be laid before both Houses of Parliament.

(6) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may direct the University to make provisions in the Statutes in respect of any matter specified by him and if the Executive Council is unable to implement such direction within sixty days of its receipt, the Visitor may, after considering the reasons, if any, communicated by the Executive Council for its inability to comply with such direction, make or amend the Statutes suitably.

27. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

Powers to
make
Ordinances.

- (a) the admission of students to the University and their enrolment as such;
- (b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;
- (c) the medium of instruction and examination;
- (d) the award of degrees, diplomas, certificates and other academic distinctions, qualifications for the same and the means to be taken relating to the granting and obtaining of the same;
- (e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;
- (f) the conditions for awards of fellowships, scholarships, studentships, medals and prizes;
- (g) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;
- (h) the conditions of residence of the students of the University;
- (i) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students and prescribing of special courses of studies for them;
- (j) the appointments and emoluments of employees other than those for whom provision has been made in the Statutes;
- (k) the establishment of Centres of Studies, Boards of Studies, Special Centres, Specialised Laboratories and other Committees;
- (l) the manner of co-operation and collaboration with other Universities, Institutions and other agencies including learned bodies or associations in India or abroad;
- (m) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;
- (n) such other terms and conditions of service of teachers and other academic staff as are not prescribed by the Statutes;
- (o) the management of Institutions established by the University;
- (p) setting up of a machinery for redressal of grievances of employees; and
- (q) all other matters which by this Act or the Statutes may be provided for by the Ordinances.

(2) The first Ordinances shall be made by the Vice-Chancellor with the previous approval of the Central Government and the Ordinances so made may be amended, repealed or added to at any time by the Executive Council in the manner prescribed by the Statutes.

Regulations.

28. The authorities of the University may make Regulations, consistent with this Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances in the manner prescribed by the Statutes.

Annual report.

29. (1) The annual report of the University shall be prepared under the direction of the Executive Council which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and shall be submitted to the Visitor on or before such date as may be prescribed by the Statutes.

(2) A copy of the annual report, as prepared under sub-section (1), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

Annual accounts.

30. (1) The annual accounts and balance-sheet of the University shall be prepared under the directions of the Executive Council and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor General of India or by such persons as he may authorise in this behalf.

(2) A copy of the annual accounts together with the audit report thereon shall be submitted to the Visitor along with the observations, if any, of the Executive Council.

(3) Any observations made by the Visitor on the annual accounts shall be brought to the notice of the Executive Council and the views of the Executive Council, if any, on such observation shall be submitted to the Visitor.

(4) A copy of the annual accounts together with the audit report as submitted to the Visitor shall also be submitted to the Central Government who shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

(5) The audited annual accounts after having been laid before both Houses of Parliament shall be published in the Gazette of India.

Conditions of service of employees.

31. (1) Every employee of the University shall be appointed under a written contract which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the employee and an umpire appointed by the Visitor.

(3) The decision of the Tribunal shall be final and no suit shall lie in any civil court in respect of the matters decided by the Tribunal.

(4) Every request made by the employee under sub-section (2) shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration Act, 1940.

(5) The procedure for regulating the work of the Tribunal shall be prescribed by the Statutes.

Procedure of appeal and arbitration in disciplinary cases against students.

32. (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor, Discipline Committee or Examination Committee, as the case may be, and who has been debarred from appearing at the examination of the University for more than one year, may, within ten days of the date of receipt of such orders or copy of such resolution by him, appeal to the Executive Council and the Executive Council may confirm, modify or reverse the decision of the Vice-Chancellor or the Committee, as the case may be.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2), (3), (4) and (5) of section 31 shall, as far as may be, apply to a reference made under this sub-section.

33. Every employee or student of the University or Institution maintained by the University shall, notwithstanding anything contained in this Act, have a right to appeal within such time as may be prescribed by the Statutes, to the Executive Council against the decision of any officer or authority of the University or of Institution, as the case may be, and thereupon, the Executive Council may confirm, modify or reverse the decision appealed against.

Right to appeal.

34. (1) The University shall constitute for the benefit of its employees such provident or pension funds or provide such insurance schemes as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

Provident and pension funds.

19 of 1925

(2) Where such provident fund or pension fund has been so constituted, the Central Government may declare that the provision of the Provident Funds Act, 1925, shall apply to such fund, as if it were a Government provident fund.

35. If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Visitor whose decision thereon shall be final.

Disputes as to constitution of University authorities and bodies.

36. Where any authority of the University is given power by this Act or the Statutes to appoint Committees, such Committees shall, save as otherwise provided, consist of the members of the authority concerned and of such other person, if any, as the authority in each case may think fit.

Constitution of Committees.

37. All casual vacancies among the members (other than *ex officio* members) of any authority or other body of the University shall be filled, as soon as may be, by the person or body who appoints, elects or co-opts the member whose place has become vacant and any person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

Filling of casual vacancies.

38. No act or proceedings of any authority or other body of the University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

Proceedings of University authorities or bodies not invalidated by vacancies.

39. No suit or other legal proceedings shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

Protection of action taken in good faith.

40. A copy of any receipt, application, notice, order, proceeding, resolution of any authority or Committee of the University, or other documents in possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceeding, resolution or documents or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence, notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force.

Mode of proof of University records.

1 of 1872.

Power to
remove
difficulties.

41. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary of expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament:

Transitional
provisions.

42. Notwithstanding anything contained in this Act and the Statutes,—

(a) the first Chancellor shall be appointed by the Visitor and the said officer shall hold office for a term of five years;

(b) the first Vice-Chancellor shall be appointed by the Visitor and the said officer shall hold office for a term of five years;

(c) the first Registrar and the First Finance Officer shall be appointed by the Visitor and each of the said officers shall hold office for a term of three years;

(d) the first Court and the first Executive Council shall consist of not more than thirty members and eleven members, respectively, who shall be nominated by the Visitor and they shall hold office for a term of three years;

(e) the first Academic Council shall consist of not more than twenty-one members, who shall be nominated by the Visitor and shall hold office for a term of three years:

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment or nomination, as the case may be, by the Visitor, and the person so appointed or nominated shall hold office for so long as the officer or member in whose place he is appointed or nominated would have held that office, if such vacancy had not occurred.

Statutes,
Ordinances and
Regulations to
be published in
the Official
Gazette and to
be laid before
Parliament.

43. (1) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

(2) Every Statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.

(3) The power to make Statutes, Ordinances or Regulations shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinance or Regulations or any of them but no retrospective effect shall be given to any Statute, Ordinance or Regulation so as to prejudicially affect the interests of any person to whom such Statute, Ordinance or Regulation may be applicable.

THE SCHEDULE

(See section 26)

THE STATUTES OF THE UNIVERSITY

The Chancellor

1. (1) The Chancellor shall be appointed by the Visitor from a panel of not less than three persons recommended by the Executive Council from amongst persons of eminence in the academic or public life of the country:

Provided that if the Visitor does not approve of any of the persons so recommended he may call for fresh recommendations from the Executive Council.

(2) The Chancellor shall hold office for a term of three years and shall be eligible for reappointment:

Provided that notwithstanding the expiry of his term of office, the Chancellor shall continue to hold office until his successor enters upon his office.

The Vice-Chancellor

2. (1) The Vice-Chancellor shall be appointed by the Visitor from a panel of not less than three persons who shall be recommended by a Committee as constituted under clause (2):

Provided that if the Visitor does not approve of any of the persons included in the panel, he may call for a fresh panel.

(2) The Committee referred to in clause (1), shall consist of three persons, none of whom shall be an employee of the University or an institution associated with the University, or a member of the Executive Council or Academic Council or of any other authority of the University. Out of the three persons, two shall be nominated by the Executive Council and one by the Visitor and the nominee of the Visitor shall be the convenor of the Committee.

(3) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(4) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, and he shall not be eligible for re-appointment:

Provided that the Visitor may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him or till his successor is appointed and enters upon his office, whichever is earlier.

(5) Notwithstanding anything contained in clause (4) a person appointed as Vice-Chancellor shall, if he attains the age of sixty-five years during the term of his office or any extension thereof, retire from office.

(6) The emoluments and other conditions of service of the Vice-Chancellor shall be as follows:—

(i) The Vice-Chancellor shall be paid a monthly salary and allowances other than house rent allowance at the rates fixed by the Central Government from time to time:

Provided that if he assumes office after retiring on superannuation from a pensionable post, his salary and allowance shall be reduced by the gross amount of his pension prior to commutation or the payment of pension shall be held in abeyance until he relinquishes office:

Provided further that if he assumes office after retiring on superannuation from a non-pensionable post, his salary and allowances shall be reduced by the gross amount equivalent of retirement benefits availed of by him on superannuation:

Provided also, that where such employee had been a member of any pension scheme, the University shall make the necessary contribution to such scheme.

(ii) The Vice-Chancellor shall be entitled to travelling allowance at such rates as may be fixed by the Executive Council.

(iii) The Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his account in advance in two half yearly instalments of fifteen days each on the 1st day of January and July every year:

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half year the leave shall be credited proportionately at the rate of two and-a-half days for each completed month of service.

(iv) In addition to the leave referred to in sub-clause (iii), the Vice-Chancellor shall also be entitled to half pay leave at the rate of twenty days for each completed year of service. This half pay leave may also be availed of as commuted leave on full pay on medical certificate. When commuted leave is availed, twice the amount of half pay leave shall be debited against half pay leave due.

(v) The Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Executive Council with the approval of the Visitor from time to time.

(7) If the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise, or if he is unable to perform his duties due to ill health or any other cause, the Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor:

Provided that if the Pro-Vice-Chancellor is not available, the senior-most professor shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office or until the existing Vice-Chancellor attends to the duties of his office as the case may be.

Powers and duties of the Vice-Chancellor

3. (1) The Vice-Chancellor shall be *ex officio* Chairman of the Executive Council, the Academic Council, Finance Committee and shall in the absence of the Chancellor preside at the convocations held for conferring degrees.

(2) The Vice-Chancellor shall be entitled to be present at, and address, any meeting of any authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of such authority or body.

(3) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes, the Ordinances and the Regulations are duly observed, and he shall have all the powers necessary to ensure such observance.

(4) The Vice-Chancellor shall exercise control over the affairs of the University and shall give effect to the decisions of all the authorities of the University.

(5) The Vice-Chancellor shall have all the powers necessary for the proper maintenance of discipline in the University and he may delegate any such powers to such person or persons as he deems fit.

(6) The Vice-Chancellor shall have the power to convene or cause to be convened the meeting of the Executive Council, the Academic Council and the Finance Committee.

Pro-Vice-Chancellor

4. (1) The Pro-Vice-Chancellor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor:

Provided that where the recommendation of the Vice-Chancellor is not accepted by the Executive Council, the matter shall be referred to the Visitor who may either appoint the person recommended by the Vice-Chancellor or ask the Vice-Chancellor to recommend another person to the Executive Council:

Provided further that the Executive Council may, on the recommendation of the Vice-Chancellor, appoint a Professor to discharge the duties of the Pro-Vice-Chancellor in addition to his own duties as a Professor.

(2) The term of office of the Pro-Vice-Chancellor shall be such as may be decided by the Executive Council but it shall not in any case exceed five years or until the expiration of the term of office of the Vice-Chancellor, whichever is earlier:

Provided that the Pro-Vice-Chancellor whose term of office has expired shall be eligible for re-appointment.

Provided further that, in any case, the Pro-Vice-Chancellor shall retire on attaining the age of sixty-five years.

(3) The emoluments and other terms and conditions of service of the Pro-Vice-Chancellor shall be such as may be prescribed by the Executive Council from time to time.

(4) The Pro-Vice-Chancellor shall assist the Vice-Chancellor in respect of such matters as may be specified by the Vice-Chancellor in this behalf, from time to time, and shall also exercise such powers and perform such duties as may be assigned or delegated to him by the Vice-Chancellor.

Registrar

5. (1) The Registrar shall be appointed by the Executive Council on the recommendation of a Selection Committee constituted for the purpose and shall be a whole-time salaried officer of the University.

(2) He shall be appointed for a term of five years and shall be eligible for re-appointment

(3) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Registrar shall retire on attaining the age of sixty years:

Provided further that a Registrar shall, notwithstanding his attaining the age of sixty years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Registrar is vacant or when the Registrar is, by reason of illness, absence, or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) (a) The Registrar shall have power to take disciplinary action against such of the employees, other than teachers and academic staff, as may be specified in the Ordinances to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the withholding of increment.

Provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of shewing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause (a).

(c) In a case where the inquiry discloses that a punishment beyond the power of the Registrar is called for, the Registrar shall, upon conclusion of the inquiry, make a report to the Vice-Chancellor along with his recommendations:

Provided that an appeal shall lie to the Executive Council against an order of the Vice-Chancellor imposing any penalty.

(6) The Registrar shall be *ex officio* Secretary of the Executive Council, the Academic Council and the Boards of Studies, but shall not be deemed to be a member of any of these authorities and he shall be *ex officio* Member-Secretary of the Court.

(7) It shall be the duty of the Registrar—

(a) to be the custodian of the records, the common seal and such other property of the University as the Executive Council shall commit to his charges;

(b) to issue all notices convening meetings of the Court, the Executive Council, the Academic Council, the Boards of Studies and of any Committees appointed by those authorities;

(c) to keep the minutes of all the meetings of the Executive Council, the Academic Council and of any Committees appointed by those authorities.

(d) to conduct the official correspondence of the Executive Council and the Academic Council;

(e) to arrange for and superintend the examinations of the University in accordance with the manner prescribed by the Ordinances;

(f) to supply to the Visitor, copies of the agenda of the meetings of the authorities of the University as soon as they are issued; and the minutes of such meetings;

(g) to represent the University in suits or proceedings by or against the University, sign powers-of-attorney and verify pleadings or depute his representative for the purpose; and

(h) to perform such other duties as may be specified in the Statutes, the Ordinances or the Regulations or as may be required, from time to time, by the Executive Council or the Vice-Chancellor.

The Finance Officer

6. (1) The Finance Officer shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) He shall be appointed for a term of five years and shall be eligible for re-appointment

(3) The emoluments and other terms and conditions of service of the Finance Officer shall be such as may be prescribed by the Executive Council from time to time.

Provided that a Finance Officer shall retire on attaining the age of sixty years.

Provided further that the Finance Officer shall, notwithstanding his attaining the age of sixty years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Finance Officer is vacant or when the Finance Officer is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) The Finance Officer shall be *ex officio* Secretary of the Finance Committee, but shall not be deemed to be a Member of such Committee.

(6) The Finance Officer shall—

(a) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(b) perform such other financial functions as may be assigned to him by the Executive Council or as may be prescribed by the Statutes or the Ordinances.

(7) Subject to the control of the Executive Council, the Finance Officer shall—

(a) hold and manage the property and investments of the University including trust and endowed property;

(b) ensure that the limits fixed by the Executive Council for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purpose for which they are granted or allotted;

(c) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the Executive Council;

(d) keep a constant watch on the state of the cash and bank balances and on the state of investment;

(e) watch the progress of the collection of revenue and advise on the methods of collection employed;

(f) ensure that the registers of buildings, land, furniture and equipment are maintained up-to-date and that stock-checking is conducted, of equipment and other consumable materials in all offices, Special Centres, Specialised Laboratories and Institutions maintained by the University;

(g) bring to the notice of the Vice-Chancellor unauthorised expenditure and other financial irregularities and suggest disciplinary action against persons at fault; and

(h) call for from any office, Centre, Laboratory or Institution maintained by the University any information or returns that he may consider necessary for the performance of his duties.

(8) Any receipt given by the Finance Officer or the person or persons duly authorised in this behalf by the Executive Council for any money payable to the University shall be sufficient discharge for payment of such money.

Deans of Schools of Studies

7. (1) Every Dean of a School of Studies shall be appointed by the Vice-Chancellor from among the Professors in the school for a period of three years and he shall be eligible for re-appointment

Provided that a Dean on attaining the age of sixty years shall cease to hold office as such:

Provided further that if at any time there is no Dean in a School, the Vice-Chancellor, Pro-Vice-Chancellor or a Dean authorised by the Vice-Chancellor in this behalf, shall exercise the powers of the Dean of the School.

(2) When the office of the Dean is vacant or when the Dean is, by reason of illness, absence or any other cause, unable to perform duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(3) The Dean shall be the Head of the School and shall be responsible for the conduct and maintenance of the standards of teaching and research in the School and shall have such other functions as may be prescribed by the Ordinances.

(4) The Dean shall have the right to be present and to speak at any meeting of the Boards of Studies or Committees of the School, as the case may be, but shall not have the right to vote thereat unless he is a member thereof.

Heads of Departments

8. (1) In the case of Departments which have more than one Professor the Head of the Department shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor from among the Professors.

(2) In the case of Departments where there is no Professor or there is only one Professor, the Executive Council shall have the option to appoint, on the recommendation of the Vice-Chancellor, either the Professor or a Reader as the Head of the Department:

Provided that it shall be open to a Professor or Reader to decline the offer of appointment as the Head of the Department.

(3) A person appointed as the Head of the Department shall hold office as such for a period of three years and shall be eligible for re-appointment

(4) A Head of a Department may resign his office at any time during his tenure of office.

(5) A Head of a Department shall perform such duties as may be prescribed by the Ordinances.

Proctor

9. (1) The Proctor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor and shall exercise such powers and perform such duties as may be assigned to him by the Vice-Chancellor.

(2) The Proctor shall hold office for a term of two years and shall be eligible for reappointment.

Librarian

10. (1) The Librarian shall be appointed by the Executive Council on the recommendation of the Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The Librarian shall exercise such powers and perform such duties and shall have such emoluments, terms and conditions of service as may be prescribed by the Executive Council.

The Court

11. Ten members of the Court shall form a quorum for a meeting of the Court.

The Executive Council

12. Five members of the Executive Council shall form a quorum for a meeting of the Executive Council.

Powers and functions of the Executive Council

13. (1) The Executive Council shall have the power of management and administration of the revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

(2) Subject to the provisions of this Act, the Statutes and the Ordinances, the Executive Council shall, in addition to all other powers vested in it, have the following powers, namely:—

(i) to create teaching and academic posts, to determine the number and emoluments of such posts and to define the duties and conditions of service of Professors, Readers, Lecturers and other academic staff and Principals of Institutions maintained by the University.

Provided that no action shall be taken by the Executive Council in respect of the number, qualifications and the emoluments of teachers and academic staff otherwise than after consideration of the recommendations of the Academic Council;

(ii) to appoint such Professors, Readers, Lecturers and other academic staff, as may be necessary, and Principals of the Institutions maintained by the University on the recommendation of the Selection Committee constituted for the purpose and to fill up temporary vacancies therein;

(iii) to create administrative, ministerial and other necessary posts and to make appointments thereto in the manner prescribed by the Ordinances;

(iv) to grant leave of absence to any officer of the University, other than the Chancellor and the Vice-Chancellor, and to make necessary arrangements for the discharge of the functions of such officer during his absence;

(v) to regulate and enforce discipline among employees in accordance with the Statutes and the Ordinances;

(vi) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University, and for that purpose to appoint such agents as it may think fit;

(vii) to fix limits on the total recurring and the total non-recurring expenditure for a year on the recommendations of the Finance Committee;

(viii) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, share or securities, from time to time as it may think fit or in the purchase of immovable property in India, with the like powers of varying such investment from time to time;

(ix) to transfer or accept transfers of any movable or immovable property on behalf of the University;

(x) to provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;

(xi) to enter into, vary, carry out and cancel contracts on behalf of the University;

(xii) to entertain, adjudicate upon, and, if thought fit, to redress any grievances of the employees and students of the University who may, for any reason, feel aggrieved;

(xiii) to appoint examiners and moderators and, if necessary, to remove them, and to fix their fees, emoluments and travelling and other allowances, after consulting the Academic Council;

(xiv) to select a common seal for the University and provide for the custody and use of such seal;

(xv) to make such special arrangements as may be necessary for the residence and discipline of women students;

(xvi) to delegate any of its powers to the Vice Chancellor, the Pro-Vice-Chancellor, the Deans, the Registrar or the Finance Officer or such other employee or authority of the University or to a committee appointed by it as it may deem fit;

(xvii) to institute fellowships, scholarships, studentships, medals and prizes;

(xviii) to provide for inviting Writer in Residence and determine the terms and conditions of such invitations;

(xix) to provide for the appointment of Visiting Professors, Emeritus Professors, Consultants and Scholars and determine the terms and conditions of such appointments; and

(xx) to exercise such other powers and perform such other duties as may be conferred or imposed on it by the Act, or the Statutes.

The Academic Council

14. Ten members of the Academic Council shall form quorum for a meeting of the Academic Council.

Powers and functions of the Academic Council

15. Subject to the Act, the Statutes and the Ordinances, the Academic Council shall, in addition to all other powers vested in it, have the following powers, namely:—

(a) to exercise general supervision over the academic policies of the University and to give directions regarding methods of instructions, co-ordinating teaching among the Institutions and evaluation of research or improvement in academic standards;

(b) to bring about inter-School co-ordination, to establish or appoint committees or boards, for taking up projects on an inter-School basis;

(c) to consider matters of general academic interest either on its own initiative or on a reference by a School or the Executive Council and to take appropriate action thereon; and

(d) to frame such regulations and rules consistent with the Statutes and the Ordinances regarding the academic functioning of the University, discipline, residence, admissions, award of fellowships and studentships, fees, concessions, corporate life and attendance.

Schools of Studies and Departments

16. (1) The University shall have such Schools of Studies as may be specified in the Statutes.

(2) Every School shall have a School Board and the members of the first School Board shall be nominated by the Executive Council and shall hold office for a period of three years.

(3) The powers and functions of a School Board shall be prescribed by the Ordinances.

(4) The conduct of the meetings of a School Board and the quorum required for such meetings shall be prescribed by the Ordinances.

(5) (a) Each School shall consist of such Departments as may be assigned to it by the Ordinances:

Provided that the Executive Council may, on the recommendation of the Academic Council, establish Centres of Studies to which may be assigned such teachers of the University as the Executive Council may consider necessary.

(b) Each Department shall consist of the following members, namely:—

(i) teachers of the Department;

(ii) persons conducting research in the Department;

(iii) Dean of the School;

(iv) Honorary Professors, if any, attached to the Department; and

(v) such other persons as may be members of the Department in accordance with the provisions of the Ordinances.

Board of Studies

17. (1) Each Department shall have a Board of Studies.

(2) The constitution of the Board of Studies and the term of office of its members shall be prescribed by the Ordinances.

(3) Subject to the overall control and supervision of the Academic Council, the functions of the Board of Studies shall be to approve subjects for research for various degrees and other requirements of research degrees and to recommend to the concerned School Board in the manner prescribed by the Ordinances—

(a) courses of studies and appointment of examiners for post-graduate courses, but excluding research degrees;

(b) appointment of supervisors of research; and

(c) measures for the improvement of the standard of post-graduate teaching and research:

Provided that the above functions of a Board of Studies shall, during the period of three years immediately after the commencement of the Act, be performed by the Department.

Finance Committee

18. (1) The Finance Committee shall consist of the following members, namely:—

(i) the Vice-Chancellor;

(ii) the Pro-Vice-Chancellor;

(iii) three persons nominated by the Executive Council, out of whom at least one shall be a member of the Executive Council; and

(iv) three persons nominated by the Visitor.

(2) Five members of the Finance Committee shall form a quorum for a meeting of the Finance Committee.

(3) All the members of the Finance Committee, other than *ex officio* members, shall hold office for a term of three years.

(4) The Finance Committee shall meet at least twice every year to examine the accounts and to scrutinise proposals for expenditure.

(5) All proposals relating to creation of posts, and those items which have not been included in the Budget, should be examined by the Finance Committee for consideration and comments and thereafter submitted to the Executive Council.

(6) The annual accounts and the financial estimates of the University prepared by the Finance Officer shall be laid before the Finance Committee for consideration and comments and thereafter submitted to the Executive Council for approval.

(7) The Finance Committee shall recommend limits for the total recurring expenditure and the total non-recurring expenditure for the year, based on the income and resources of the University (which, in the case of productive works, may include the proceeds of loans).

Selection Committees

19. (1) There shall be Selection Committees for making recommendations to the Executive Council for appointment to the posts of Professors, Readers, Lecturer, Registrar, Finance Officer, Librarian and Principals of the Institutions maintained by the University.

(2) The Selection Committee for appointment to the posts specified in column 1 of the Table below shall consist of the Vice-Chancellor, Pro-Vice-Chancellor, a nominee

of the Visitor and the persons specified in the corresponding entry in column 2 of the said Table:—

TABLE

1	2
Professor	<p>(i) The Dean of the School concerned.</p> <p>(ii) The Head of the Department concerned if he is a Professor.</p> <p>(iii) Three persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Professor will be concerned.</p>
Reader/Lecturer	<p>(i) The Dean of the School concerned.</p> <p>(ii) The Head of the Department concerned.</p> <p>(iii) Two persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Reader or a Lecturer will be concerned.</p>
Registrar/Finance Officer	<p>(i) Two members of the Executive Council nominated by it.</p> <p>(ii) One person not in the service of the University nominated by the Executive Council.</p>
Librarian	<p>(i) Two persons not in the service of the University, who have special knowledge of the subject of the Library Science/Library Administration to be nominated by the Executive Council.</p> <p>(ii) One person not in the service of the University, nominated by the Executive Council.</p>
Head of the Institutions maintained by the University.	Three persons not in the service of the University of whom two shall be nominated by the Executive Council and one by the Academic Council for their special knowledge of, or interest in, a subject in which instruction is being provided by the Institution.

NOTE: 1. Where the appointment is being made for an inter-disciplinary project, the head of the project shall be deemed to be the Head of the Department concerned.

2. The Professor to be nominated shall be Professor concerned with the speciality for which the selection is being made and that the Vice-Chancellor shall consult the Head of the Department and the Dean of the School before nominating the Professor.

(3) The Vice-Chancellor, or in his absence, the Pro Vice-Chancellor shall preside the meetings of a Selection Committee:

Provided that the meetings of the Selection Committee shall be fixed after prior consultation with, and subject to the convenience of, Visitor's nominee and the persons nominated by the Executive Council under clause (2):

Provided further that the proceedings of the Selection Committee shall not be valid unless,—

(a) where the number of Visitor's nominee and the persons nominated by the Executive Council is four in all, at least three of them attend the meeting; and

(b) where the number of Visitor's nominee and the persons nominated by the Executive Council is three in all, at least two of them attend the meeting.

(4) The meeting of a Selection Committee shall be convened by the Vice-Chancellor or in his absence by the Pro-Vice-Chancellor.

(5) The procedure to be followed by a Selection Committee in making recommendations shall be laid down in the Ordinances.

(6) If the Executive Council is unable to accept the recommendations made by a Selection Committee, it shall record its reasons and submit the case to the Visitor for final orders.

(7) Appointments to temporary posts shall be made in the manner indicated below:—

(i) If the temporary vacancy is for a duration longer than one academic session, it shall be filled on the advice of the Selection Committee in accordance with the procedure indicated in the foregoing clauses:

Provided that if the Vice-Chancellor is satisfied that in the interest of work it is necessary to fill the vacancy, the appointment may be made on a purely temporary basis by a local Selection Committee referred to in sub-clause (ii) for a period not exceeding six months.

(ii) If the temporary vacancy is for a period less than a year, an appointment to such vacancy shall be made on the recommendation of a local Selection Committee consisting of the Dean of the School concerned, the Head of the Department and a nominee of the Vice-Chancellor:

Provided that if the same person holds the offices of the Dean and the Head of the Department, the Selection Committee may contain two nominees of the Vice-Chancellor:

Provided further that in case sudden vacancies of teaching posts caused by death or any other reason, the Dean may, in consultation with the Head of the Department concerned make a temporary appointment for a month and report to the Vice-Chancellor and the Registrar about such appointment.

(iii) No teacher appointed temporarily shall, if he is not recommended by a regular Selection Committee for appointment under the Statutes, be continued in service on such temporary employment, unless he is subsequently selected by a local Selection Committee or a regular Selection Committee, for a temporary or permanent appointment, as the case may be.

Special mode of appointment

20. (1) Notwithstanding anything contained in Statute 19, the Executive Council may invite a person of high academic distinction and professional attainments to accept a post of Professor or Reader or any other academic post in the University, as the case may be, on such terms and conditions as it deems fit, and on the person agreeing to do so, appoint him to the post.

(2) The Executive Council may appoint a teacher or any other academic staff working in any other University or organisation for undertaking a joint project in accordance with the manner laid down in the Ordinances.

Appointment for a fixed tenure

21. The Executive Council may appoint a person selected in accordance with the procedure laid down in Statute 19 for a fixed tenure on such terms and conditions as it deems fit.

Committees

22. (1) Any authority of the University may appoint as many standing or special Committees as it may deem fit, and may appoint to such Committees persons who are not members of such authority.

(2) Any such Committee appointed under clause (1) may deal with any subject delegated to it subject to subsequent confirmation by the authority appointing.

Terms and conditions of service and code of conduct of the teachers, etc.

23. (1) All the teachers and other academic staff of the University shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

(2) Every teacher and member of the academic staff of the University shall be appointed on a written contract, the form of which shall be prescribed by the Ordinances.

(3) A copy of every contract referred to in clause (2) shall be deposited with the Registrar.

Terms and conditions of service and code of conduct of other employees

24. All the employees of the University, other than the teachers and other academic staff of the University, shall, in the absence of any contract to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

Seniority list

25. (1) Whenever, in accordance with the Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade, and in accordance with such other principles as the Executive Council may, from time to time, frame.

(2) It shall be the duty of the Registrar to prepare and maintain, in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provision of clause (1).

(3) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the Registrar may, on his own motion and shall, at the request of any such person, submit the matter to the Executive Council whose decision thereon shall be final.

Removal of employees of the University

26. (1) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor, in the case of the teacher or member of the academic staff, and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee, may, by order in writing, place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Executive Council the circumstances in which the order was made:

Provided that the Executive Council may, if it is of the opinion that the circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.

(2) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and conditions of service of the employees, the Executive Council in respect of teachers and other academic staff, and the appointing authority, in respect of other employees, shall have the power to remove a teacher or a member of the academic staff, or as the case may be, other employee on ground of misconduct.

(3) Save as aforesaid, the Executive Council, or as the case may be, the appointing authority, shall not be entitled to remove any teacher, member of the academic staff or other employee except for a good cause and after giving three months' notice or on payment of three months' salary in lieu thereof.

(4) No teacher, member of the academic staff or other employee shall be removed under clause (2) or clause (3) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(5) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(6) Notwithstanding anything contained in the foregoing provisions of this Statute, a teacher, member of the academic staff or other employee may resign,—

(a) if he is a permanent employee, only after giving three months' notice in writing to the Executive Council or the appointing authority, as the case may be, or by paying three months' salary in lieu thereof;

(b) if he is not a permanent employee, only after giving one month's notice in writing to the Executive Council or, as the case may be, the appointing authority or by paying one month's salary in lieu thereof.

Provided that such resignation shall take effect only on the date on which the resignation is accepted by the Executive Council or the appointing authority, as the case may be.

Honorary degrees

27. (1) The Executive Council may, on the recommendation of the Academic Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Visitor for the conferment of honorary degrees:

Provided that in case of emergency, the Executive Council may, on its own motion, make such proposals.

(2) The Executive Council may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw, with the previous sanction of the Visitor, any honorary degree conferred by the University.

Withdrawal of degrees, etc.

28. The Executive Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw any degree or academic distinction conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause.

Provided that no such resolution shall be passed until a notice in writing has been given to that person calling upon him to show cause within such time as may be

specified in the notice why such a resolution should not be passed and until his objection, if any, and any evidence he may produce in support of them, have been considered by the Executive Council.

Maintenance of discipline among Students of the University

29. (1) All powers relating to discipline and disciplinary action in relation to students of the University shall vest in the Vice-Chancellor.

(2) The Vice-Chancellor may delegate all or any of his powers as he deems proper to a Proctor and to such other officers as he may specify in this behalf.

(3) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the Vice-Chancellor may, in exercise of his powers, by order, direct that any student or students be expelled, or rusticated, for a specified period, or be not admitted to a course or courses of study in an Institution or a Department of the University for stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, Institution or Department or a School for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be cancelled.

(4) The Head of Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective Institutions, Schools and teaching Departments in the University as may be necessary for the proper conduct of such Institutions, Schools and teaching Departments in the University.

(5) Without prejudice to the powers of the Vice-Chancellor, and other persons specified in clause (4), detailed rules of discipline and proper conduct shall be made by the University. The Principals of Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University may also make the supplementary rules as they deem necessary for the aforesaid purposes.

Convocations

30. Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances.

Acting Chairman of meetings

31. Where no provision is made for a President or Chairman to preside over a meeting of any authority of the University or any Committee of such authority or when the President or Chairman so provided for is absent, the members present shall elect one from among themselves to preside at such meeting.

Resignation

32. Any member, other than an *ex officio* member, of the Court, the Executive Council, the Academic Council or any other authority of the University or any Committee of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar.

Disqualifications

33. (1) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities of the University,—

(i) if he is of unsound mind;

(ii) if he is an undischarged insolvent;

(iii) If he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months.

(2) If any question arises as to whether a person is or had been subjected to any of the disqualifications mentioned in clause (1), the question shall be referred to the Visitor and his decision shall be final and no suit or other proceeding shall lie in any civil court against such decision.

Residence condition for membership and office

34. Notwithstanding anything contained in the Statutes, a person who is not ordinarily resident in India shall not be eligible to be an officer of the University or a member of any authority of the University.

Membership of authorities by virtue of membership of other bodies

35. Notwithstanding anything contained in the Statutes, a person who holds any post in the University or is a member of any authority or body of the University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or body or the holder of that particular appointment, as the case may be.

Ordinances how made

36. (1) The first Ordinances made under sub-section (2) of section 27 may be amended, repealed or added to at any time by the Executive Council in the manner specified below.

(2) No Ordinance in respect of the matters enumerated in section 27, other than the one enumerated in clause (m) of sub-section (1) thereof, shall be made by the Executive Council unless a draft of such Ordinance has been proposed by the Academic Council.

(3) The Executive Council shall not have power to amend any draft of any Ordinance proposed by the Academic Council under clause (2), but may reject the proposal or return the draft to the Academic Council for re-consideration, either in whole or in part, together with any amendment which the Executive Council may suggest.

(4) Where the Executive Council has rejected or returned the draft of an Ordinance proposed by the Academic Council, the Academic Council may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half the total number of members of the Academic Council, the draft may be sent back to the Executive Council which shall either adopt it or refer it to the Visitor whose decision shall be final.

(5) Every Ordinance made by the Executive Council shall come into effect immediately.

(6) Every Ordinance made by the Executive Council shall be submitted to the Visitor within two weeks from the date of its adoption. The Visitor shall have the power to direct the University within four weeks of the receipt of the Ordinance to suspend the operation for any such Ordinance and he shall, as soon as possible, inform the Executive Council about his objection to the proposed Ordinance. The Visitor may, after receiving the comments of the University, either withdraw the order suspending the Ordinance or disallow the Ordinance, and his decision shall be final.

Regulations

37. (1) The authorities of the University may make Regulations consistent with the Act, the Statutes and the Ordinances for the following matters, namely:—

(i) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(ii) providing for all matters which are required by the Act, the Statutes or the Ordinances to be prescribed by Regulations;

(iii) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by the Act, the Statutes or the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meeting and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(3) The Executive Council may direct the amendment in such manner as it may specify of any Regulation made under the Statutes or the annulment of any such Regulation.

Delegation of powers

38. Subject to the provisions of the Act and the Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers.

Sd/-

K. L. MOHANPURIA,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 28th August, 1998.

No. RP/37-98/ORD/9 /98/E.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 23rd April, 1998 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 23rd April, 1998/Vaisakha 3, 1920 (Saka)

**THE NATIONAL INSTITUTE OF PHARMACEUTICAL EDUCATION
 AND RESEARCH (SECOND) ORDINANCE, 1998**

No. 9 of 1998

Promulgated by the President in the Forty-ninth Year of the
 Republic of India.

An Ordinance to declare the institution known as the National Institute of Pharmaceutical Education and Research to be an institution of national importance and to provide for its incorporation and matters connected therewith.

WHEREAS the National Institute of Pharmaceutical Education and Research Bill, 1997, to declare the Institute as an institution of national importance, was introduced in the House of the People on the 3rd March, 1997;

AND WHEREAS the House of the People was dissolved and the Council of States was not in session and the President on being satisfied that circumstances exist which render it necessary for him to take immediate action promulgated the National Institute of Pharmaceutical Education and Research Ordinance, 1998 on the 21st January, 1998;

AND WHEREAS both the Houses of Parliament are not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the National Institute of Pharmaceutical Education and Research Ordinance, 1998;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER 1

PRELIMINARY

Short title and commencement.

1. (1) This Ordinance may be called the National Institute of Pharmaceutical Education and Research (Second) Ordinance, 1998.

(2) It shall be deemed to have come into force on the 21st day of January, 1998.

Declaration of National Institute of Pharmaceutical Education and Research as an institution of national importance.

2. Whereas the objects of the institution known as the National Institute of Pharmaceutical Education and Research, Sector-67, S.A.S. Nagar (Mohali), District Ropar, Punjab are such as to make the institution one of national importance, it is hereby declared that the institution known as the National Institute of Pharmaceutical Education and Research is an institution of national importance.

Definitions.

3. In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means the date of establishment of the National Institute of Pharmaceutical Education and Research under sub-section (1) of section 4;

(b) "Board" means the Board of Governors of the Institute constituted under sub-section (3) of section 4;

(c) "Chairperson" means the Chairperson of the Institute nominated under clause (a) of sub-section (3) of section 4;

(d) "Dean" means the Dean of the Institute appointed under section 17;

(e) "Director" means the Director of the Institute appointed under section 16;

(f) "Fund" means the Fund to be maintained under section 21;

(g) "Institute" means the National Institute of Pharmaceutical Education and Research established under sub-section (1) of section 4;

(h) "Senate" means the Senate of the Institute referred to in section 13;

(i) "Society" means the National Institute of Pharmaceutical Education and Research Society, Sector-67, S.A.S. Nagar (Mohali), District Ropar, Punjab registered under the Societies Registration Act, 1860;

21 of 1860.

(j) "Statutes" and "Ordinances" mean the Statutes and the Ordinances of the Institute made under this Ordinance.

CHAPTER II

THE INSTITUTE

Establishment of Institute.

4. (1) With effect from such date as the Central Government, may by notification in the Official Gazette, appoint, the National Institute of Pharmaceutical Education and Research shall be constituted as a body corporate by the name aforesaid.

(2) The Institute shall have perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property and to contract, and shall, by that name, sue and be sued.

(3) The Institute shall consist of the Board of Governors having the following persons, namely:—

(a) Chairperson, who shall be an eminent academician, scientist or technologist or professional, to be nominated by the Visitor;

- (b) Director of the Institute, *ex officio*;
- (c) Joint Secretary, in charge of pharmaceutical industries in the concerned Ministry or Department of the Government of India, *ex officio*;
- (d) Secretary, Technical Education, Government of Punjab, Chandigarh, *ex officio*;
- (e) Financial Adviser of the Ministry or Department of the Government of India dealing with the pharmaceutical industries, *ex officio*;
- (f) Drug Controller General of India, Ministry of Health and Family Welfare of the Government of India, *ex officio*;
- (g) Member-Secretary, All-India Council for Technical Education, *ex officio*;
- (h) Director of any one of the national laboratories of the Council of Scientific and Industrial Research to be nominated by the Director General of Council of Scientific and Industrial Research, New Delhi;
- (i) Director of either the All-India Institute of Medical Sciences, New Delhi or the Post-Graduate Institute of Medical Education and Research, Chandigarh to be nominated by rotation by the Ministry of Health and Family Welfare of the Government of India;
- (j) President, India Drugs Manufacturers' Association, *ex officio*;
- (k) President, Organisation of Pharmaceutical Producers of India, *ex officio*;
- (l) three eminent pharmaceutical experts, one of whom shall be an educationist, a research scientist and a bio-technologist, to be nominated by the Central Government;
- (m) three eminent public persons or social workers one of whom shall be either from the Scheduled Castes or from the Scheduled Tribes, to be nominated by the Visitor out of a panel prepared by the Central Government;
- (n) two pharmaceutical industrialists to be nominated by the Visitor out of a panel prepared by the Central Government;
- (o) three Members of Parliament, two from Lok Sabha to be nominated by the Speaker of Lok Sabha and one from Rajya Sabha to be nominated by the Chairman of Rajya Sabha.

(4) The term of office of the Chairperson and Governors other than *ex officio* Governors shall be three years and they shall be entitled for such allowances as may be determined by the Central Government.

(5) The term of office of Governor nominated to fill a casual vacancy shall continue for the remainder of the term of the Governor in whose place he has been nominated.

(6) The Board shall meet at least three times in a year at such place and time and observe such rules of procedure in regard to the transaction of business at its meetings as may be determined by the Board.

5. On and from the appointed day, subject to the other provisions of this Ordinance, all properties which had vested in the Society, immediately before the commencement of this Ordinance, shall, on and from such commencement, vest in the Institute.

6. On and from the appointed day,—

(a) any reference to the Society in any contract or other instrument shall be deemed as a reference to the Institute;

(b) all the rights and liabilities of the Society shall be transferred to, and be the rights and liabilities of, the Institute; and

(c) every person employed by the Society immediately before the appointed day shall hold office or service in the Institute by the same tenure, at the same

Vesting of
properties.

Effect of
incorporation
of Institute.

remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same if this Ordinance had not been promulgated, and shall continue to be so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Institute of compensation equivalent to three months' remuneration in the case of permanent employee and one month's remuneration in the case of other employee.

Functions of
Institute.

7. The functions of the Institute shall be—

- (i) to nurture and promote quality and excellence in pharmaceutical education and research;
- (ii) to concentrate on courses leading to master's degree, doctoral and post-doctoral courses and research in pharmaceutical education;
- (iii) to hold examinations and grant degrees;
- (iv) to confer honorary awards or other distinctions;
- (v) to co-operate with educational or other institutions having objects wholly or partly similar to those of the Institute by exchange of faculty members and scholars and generally in such manner as may be conducive to their common objective;
- (vi) to conduct courses for teachers, pharmaceutical technologist, community and hospital pharmacists and other professionals;
- (vii) to collect and maintain world literature on pharmaceutical and related sciences and technology so as to develop an information centre of its own kind for other institutions within the country and in the developing world;
- (viii) to create a central faculty of pharmaceutical instrumentation and analysis for use by the researchers within and outside the Institute;
- (ix) to have a centre to experiment and innovate and to train teachers and other workers in the art or science of pharmaceutical teaching;
- (x) to develop a world level centre for creation of new knowledge and transmission of existing information in pharmaceutical areas, with focus on national, educational, professional and industrial commitments;
- (xi) to develop a multi-disciplinary approach in carrying out research and training of pharmaceutical manpower so that the larger interests of the profession, academia and pharmaceutical industry are better served and a pharmaceutical work culture is evolved which is in tune with the changing world trends and patterns of pharmaceutical education and research;
- (xii) to organise national or international symposia, seminars and conferences in selected areas of pharmaceutical education, from time to time;
- (xiii) to arrange courses catering to the special needs of the developing countries;
- (xiv) to act as a nucleus for inter-action between academic and industry by encouraging exchange of scientists and other technical staff between the Institute and the industry and by undertaking sponsored and funded research as well as consultancy projects by the Institute; and
- (xv) to pay due attention to studies on the distribution and usage of drugs by the rural masses, taking into account the socio-economic spectrum in the country.

8. (1) Subject to the provisions of this Ordinance, the Board shall be responsible for the general superintendence, direction and control of the affairs of the Institute and shall exercise all the powers not otherwise provided for by this Ordinance, the Statutes and the Ordinances, and shall have the power to review the acts of the Senate.

Power of Board.

(2) Without prejudice to the provisions of sub-section (1), the Board shall—

(a) take decisions on questions of policy relating to the administration and working of the Institute;

(b) fix, demand and receive fees and other charges;

(c) supervise and control the residence and regulate the discipline of students of the Institute and to make arrangements for promoting their health, general welfare and cultural and corporate life;

(d) institute academic and other posts and to make appointments thereto (except in the case of the Director);

(e) frame Statutes and Ordinances and to alter, modify or rescind the same;

(f) institute and award fellowship, scholarship, prizes and medals;

(g) consider and pass resolutions on the annual report, the annual accounts and the budget estimates of the Institute for the next financial year as it thinks fit together with a statement of its development plans; and

(h) do all such things as may be necessary, incidental or conducive to the attainment of all or any of the aforesaid functions.

(3) The Board shall have to power to appoint such committees as it considers necessary for the exercise of its power and the performance of its duties under this Ordinance.

(4) Notwithstanding anything contained in sub-section (2) of section 4, the Board shall not dispose of in any manner any immovable property without the prior approval of the Central Government.

9. (1) The Institute shall be open to persons of either sex and of whatever race, creed, caste or class, and no test or condition shall be imposed as to religious belief or profession in admitting or appointing members, students, teachers or workers or in any other connection whatsoever.

Institute to be open to all races, creeds and classes.

(2) No bequest, donation or transfer of any property shall be accepted by the Institute which in the opinion of the Board involves conditions or obligations opposed to the spirit and object of this section.

10. All teaching at the Institute shall be conducted by or in the name of the Institute in accordance with the Statutes and the Ordinances made in this behalf.

Teaching at Institute.

11. (1) The President of India shall be the Visitor of the Institute.

Visitor.

(2) The Visitor may appoint one or more persons to review the work and progress of the Institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(3) Upon receipt of any such report, the Visitor may take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the Institute shall be bound to comply with such directions.

12. The following shall be the other authorities of the Institute, namely:—

Authorities of Institute.

(a) a Senate;

(b) such other authorities as may be declared by the Statutes to be the authorities of the Institute.

Senate.

13. The Senate of the Institute shall consist of the following persons, namely:—

(a) the Director, *ex officio*, who shall be the Chairperson of the Senate;

(b) the Dean, *ex officio*;

(c) five professors of the Institute, to be nominated by the Chairperson in consultation with the Director, by rotation;

(d) three persons, not being employees of the Institute, to be nominated by the Chairperson in consultation with the Director, from among educationists of repute, one each from the fields of science, engineering and humanities and one of them shall be either from the Scheduled Castes or from the Scheduled Tribes; and

(e) such other members of the staff as may be laid down in the Statutes.

Functions of Senate.

14. Subject to the provisions of this Ordinance, the Statutes and the Ordinances, the Senate of the Institute shall have the control and general regulation, and be responsible for the maintenance, of standards of instruction, education and examination in the Institute and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes.

Functions, powers and duties of Chairperson.

15. (1) The Chairperson shall ordinarily preside at the meetings of the Board and at the Convocations of the Institute.

(2) It shall be the duty of the Chairperson to ensure that the decisions taken by the Board are implemented.

(3) The Chairperson shall exercise such other powers and perform such other duties as may be assigned to him by this Ordinance or the Statutes.

Director.

16. (1) The Director of the Institute shall be appointed by the Board with the prior approval of the Visitor.

(2) The Director shall be the principal academic and executive officer of the Institute and shall be responsible for the proper administration and academic performance of the Institute and for imparting of instruction and maintenance of discipline therein.

(3) The Director shall submit annual reports and accounts to the Board.

(4) The Director shall exercise such other powers and perform such other duties as may be assigned to him by this Ordinance or the Statutes or the Ordinances.

Dean.

17. (1) The Dean of the Institute shall be appointed on such terms and conditions as may be laid down by the Statutes and shall exercise such powers and perform such duties as may be assigned to him by this Ordinance or the Statutes or the Director.

(2) The Dean shall report to the Director.

Registrar.

18. (1) The Registrar of the Institute shall be appointed on such terms and conditions as may be laid down by the Statutes and shall be the custodian of records, the common seal, the funds of the Institute and such other property of the Institute as the Board shall commit to his charge.

(2) The Registrar shall act as the Secretary of the Board, the Senate and such committees as may be prescribed by the Statutes.

(3) The Registrar shall be responsible to the Director for the proper discharge of his functions.

(4) The Registrar shall exercise such other powers and perform such other duties as may be assigned to him by this Ordinance or the Statutes or the Director.

Powers and duties of authorities and officers.

19. The powers and duties of authorities and officers, other than those hereinbefore mentioned, shall be determined by the Statutes.

20. For the purpose of enabling the Institute to discharge its functions efficiently under this Ordinance, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Institute in each financial year such sums of money and in such manner as it may think fit.

Grants by
Central
Government.

21. (1) The Institute shall maintain a fund to which shall be credited—

Fund of
Institute.

- (a) all moneys provided by the Central Government;
- (b) all fees and other charges;
- (c) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers; and
- (d) all moneys received by the Institute in any other manner or from any other source.

(2) All moneys credited to the Fund of the Institute shall be deposited in such banks or invested in such manner as the Institute may, with the approval of the Central Government, decide.

(3) The Fund of the Institute shall be applied towards meeting the expenses of the Institute including expenses incurred in the exercise of its powers and discharge of its duties under this Ordinance.

22. Notwithstanding anything contained in section 21, the Central Government may direct the Institute to—

Setting up of
endowment
fund.

- (a) set up an endowment fund and any other fund for specified purpose;
- (b) transfer money from its Fund to endowment fund or any other fund.

23. (1) The Institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance-sheet, in such form as may be specified, in accordance with such general directions as may be issued by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and
audit.

(2) The accounts of the Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Institute.

(4) The accounts of the Institute as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

24. (1) The Institute shall constitute, for the benefit of its employees, including the Director, in such manner and subject to such conditions as may be prescribed by the Statutes, such pension, insurance and provident funds as it may deem fit.

Pension and
provident
fund.

(2) Where any such provident fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a Government provident fund.

19 of 1925.

25. All appointments on the staff of the Institute, except that of the Director, shall be made in accordance with the procedure laid down in the Statutes—

Appointments.

- (a) by the Board, if the appointment is made on the academic staff in the post of Assistant Professor or above or if the appointment is made on the non-academic staff in any cadre, the maximum of the pay-scale for which is the same or higher than that of Assistant Professor; and

(b) by the Director, in any other case.

Statutes.

26. Subject to the provisions of this Ordinance, the Statutes may provide for all or any of the following matters, namely:—

- (a) the formation of departments of teaching;
- (b) the institution of fellowships, scholarships, exhibitions, medals and prizes;
- (c) the classification, the method of appointment and the determination of the terms and conditions of service of officers, teachers and other staff of the Institute;
- (d) the reservation of posts for the Scheduled Castes, the Scheduled Tribes and other categories of persons as may be determined by the Central Government, from time to time;
- (e) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers and other staff of the Institute;
- (f) the constitution, powers and duties of the authorities of the Institute;
- (g) the establishment and maintenance of halls and hostels;
- (h) the manner of filling vacancies among members of the Board;
- (i) the authentication of the orders and decisions of the Board;
- (j) the meetings of the Senate, the quorum at such meetings and the procedure to be followed in the conduct of their business; and
- (k) any other matter which by this Ordinance is to be, or may be, prescribed by the Statutes.

Statutes how made.

27. (1) The first Statute of the Institute shall be framed by the Board with the previous approval of the Visitor and a copy of the same shall be laid as soon as may be before each House of Parliament.

(2) The Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner hereafter in this section provided.

(3) A new Statute or addition to the Statute or any amendment or repeal of a Statute shall require the previous approval of the Visitor who may assent thereto or withhold assent or remit it to the Board for consideration.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

Ordinances.

28. Subject to the provisions of this Ordinance and the Statutes, the ordinances of the Institute may provide for all or any of the following matters, namely:—

- (a) the admission of the students to the Institute;
- (b) the reservation for the Scheduled Castes, the Scheduled Tribes and other categories of person;
- (c) the courses of study to be laid down for all degrees of the Institute;
- (d) the conditions under which students shall be admitted to the degree courses and to the examinations of the Institute and shall be eligible for degrees;
- (e) the conditions of award of the fellowships, scholarships, exhibitions, medals and prizes;
- (f) the conditions and mode of appointment and duties of examining bodies, examiners and moderators;
- (g) the conduct of examinations;
- (h) the maintenance of discipline amongst the students of the Institute;
- (i) the fees to be charged for courses of study in the Institute and for admission to the examinations of degrees of the Institute;

(j) the conditions of residence of students of the Institute and the levying of the fees for residence in the halls and hostels and of other charges; and

(k) any other matter which by this Ordinance or the Statutes is to be, or may be provided for by the ordinances.

29. (1) Save as otherwise provided in this section, ordinances shall be made by the Senate.

Ordinances
how made.

(2) All ordinances made by the Senate shall have effect from such date as it may direct, but every ordinance so made shall be submitted, as soon as may be, to the Board and shall be considered by the Board at its next succeeding meeting.

(3) The Board shall have power by resolution to modify or cancel any such ordinances and such ordinances shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

30. (1) Any dispute arising out of a contract between the Institute and any of its employees shall, at the request of the employee concerned or at the instance of the Institute, be referred to a Tribunal or Arbitration consisting of one member appointed by the Institute, one member nominated by the employee and an umpire appointed by the Visitor.

Tribunal of
Arbitration.

(2) The decision of the Tribunal of Arbitration shall be final and shall not be questioned in any court.

(3) No suit or proceeding shall lie in any court in respect of any matter which is required by sub-section (1) to be referred to the Tribunal of Arbitration.

(4) The Tribunal of Arbitration shall have power to regulate its own procedure.

(5) Nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

CHAPTER III

MISCELLANEOUS

31. No act of the Institute or Board or Senate or any other body set up under this Ordinance or the Statutes, shall be invalid merely by reason of—

Acts and
proceedings
not to be
invalidated by
vacancies

(a) any vacancy in, or defect in, the constitution thereof, or

(b) any defect in the election, nomination or appointment of person acting as a member thereof, or

(c) any irregularity in its procedure not affecting the merits of the case.

3 of 1956.

32. Notwithstanding anything contained in the University Grants Commission Act, 1956 or in any other law for the time being in force, the Institute shall have power to grant degrees and other academic distinctions and titles under this Ordinance.

Grants of
degrees, etc.,
by the
Institute.

33. Whenever the Institute receives funds from any Government, the University Grants Commission or any other agency sponsoring a scheme to be executed by the Institute, notwithstanding anything in this Ordinance,—

Sponsored
schemes.

(a) the amount received shall be kept by the Institute separately from the Fund of the Institute and utilised only for the purpose of the scheme;

(b) the staff required to execute the same shall be recruited in accordance with the terms and conditions stipulated by the sponsoring organisation;

Provided that any money remaining unutilised under clause (a) shall be transferred to the endowment fund created under section 22 of this Ordinance.

34. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, make such provisions or give such directions not inconsistent with the provisions of this Ordinance, as appears to it to be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of two years from the appointed day.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Transitional provisions.

35. Notwithstanding anything contained in this Ordinance,—

(a) the Board of Governors of the Society functioning as such immediately before the commencement of this Ordinance shall continue to so function until a new Board is constituted for the Institute under this Ordinance, but on the constitution of a new Board under this Ordinance, the members of the Board holding office before such constitution shall cease to hold office;

(b) until the first Statutes and the Ordinances are made under this Ordinance, the Statutes and Ordinances of the National Institute of Pharmaceutical Education and Research, Sector-67, S.A.S. Nagar (Mohali), District Roper, Punjab, as in force, immediately before the commencement of this Ordinance, shall continue to apply to the Institute in so far as they are not inconsistent with the provisions of this Ordinance.

Statutes and Ordinances to be published in the Official Gazette and to be laid before Parliament.

36. (1) Every Statute or Ordinance made under this Ordinance shall be published in the Official Gazette.

(2) Every Statute or Ordinance made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute or Ordinance or both Houses agree that the Statute or Ordinance should not be made, the Statute or Ordinance shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute or Ordinance.

(3) The power to make the Statutes or the Ordinances shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Ordinance to the Statutes or the Ordinances or any of them and no retrospective effect shall be given to any Statute or Ordinance so as to prejudicially affect the interests of any person to whom such Statute or Ordinance may be applicable.

Repeal and saving.

37. (1) The National Institute of Pharmaceutical Education and Research Ordinance, 1998, is hereby repealed.

Ord. 2 of 1998.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

Sd/-
K. R. NARAYANAN,
President.

Sd/-
RAGHBIR SINGH,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXIX]

FRIDAY, SEPTEMBER 25, 1998 / ASVINA 3, 1920

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 22nd September, 1998.

No. RP/63/97/Act -18/97/E.—The following Act of Parliament is re-published for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 25th March, 1997/ Chaitra 4, 1919 (Saka)

The following Act of Parliament received the assent of the President on the 25th March, 1997 and is hereby published for general information :—

THE NATIONAL COMMISSION FOR SAFAI KARAMCHARIS
(AMENDMENT) ACT, 1997

(Act No. 18 of 1997)

(25th March, 1997)

AN ACT

to amend the National Commission for Safai Karamcharis Act, 1993.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. This Act may be called the National Commission for Safai Karamcharis (Amendment) Act, 1997. Short title.

64 of 1993.

2. In the National Commission for Safai Karamcharis Act, 1993 (hereinafter referred to as the principal Act), in section 1, in sub-section (4), for the figures, letters and words "31st day of March, 1997", the figures, letters and words "31st day of March, 2002" shall be substituted. Amendment of section 1.

3. In section 4 of the principal Act, in sub-section (1), the following provisos shall be inserted, namely:— Amendment of section 4.

VI-EX-32-1

"Provided that the Chairperson, Vice-Chairperson and every Member holding office as such immediately before the commencement of the National Commission for Safai Karamcharis (Amendment) Act, 1997 shall vacate their respective offices on the 31st day of March, 1997:

Provided further that the Chairperson, Vice-Chairperson and every Member appointed after the commencement of the National Commission for Safai Karamcharis (Amendment) Act, 1997 shall hold office for such period not exceeding three years as may be specified by the Central Government in this behalf or up to the 31st day of March, 2002, whichever is earlier."

Sd/-

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.

Extra No. 33



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 22nd September, 1998.

No. RP/67/97/Act -22/97/E.—The following Act of Parliament is re-published for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)
New Delhi, the 26th March, 1997/ Chaitra 5, 1919 (Saka)

The following Act of Parliament received the assent of the President on the 26th March, 1997 and is hereby published for general information :—

THE NATIONAL ENVIRONMENT APPELLATE AUTHORITY ACT, 1997

(Act No. 22 of 1997)

(26th March, 1997)

AN ACT

to provide for the establishment of a National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

CHAPTER I.

PRELIMINARY

1. (1) This Act may be called the National Environment Appellate Authority Act, 1997.

Short title and
commence-
ment.

(2) It shall be deemed to have come into force on the 30th day of January, 1997.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "Act" means the Environment (Protection) Act, 1986;
- (b) "Authority" means the National Environment Appellate Authority established under sub-section (1) of section 3;
- (c) "Chairperson" means the Chairperson of the Authority;
- (d) "Member" means a Member of the Authority;
- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "Vice-Chairperson" means the Vice-Chairperson of the Authority.

29 of 1986.

CHAPTER II

ESTABLISHMENT OF AUTHORITY

Establishment of Authority.

3. (1) The Central Government shall, by notification in the Official Gazette, establish a body to be known as the National Environment Appellate Authority to exercise the powers conferred upon, and to perform the functions assigned to, it under this Act.

(2) The head office of the Authority shall be at Delhi.

Composition of Authority.

4. The Authority shall consist of a Chairperson, a Vice-Chairperson and such other Members not exceeding three, as the Central Government may deem fit.

Qualifications for appointment as Chairperson, Vice-Chairperson or Member.

5. (1) A person shall not be qualified for appointment as a Chairperson unless he has been—

- (a) a Judge of the Supreme Court; or
- (b) the Chief Justice of a High Court.

(2) A person shall not be qualified for appointment as a Vice-Chairperson unless he has—

- (a) for at least two years held the post of a Secretary to the Government of India or any other post under the Central or State Government carrying a scale of pay which is not less than that of a Secretary to the Government of India; and
- (b) expertise or experience in administrative, legal, managerial or technical aspects of problems relating to environment.

(3) A person shall not be qualified for appointment as a Member unless he has professional knowledge or practical experience in the areas pertaining to conservation, environmental management, law or planning and development.

(4) The Chairperson, the Vice-Chairperson and the Members shall be appointed by the President.

Vice-Chairperson to act as Chairperson or to discharge his functions in certain circumstances.

6. (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Vice-Chairperson shall act as the Chairperson until the date on which a new Chairperson appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

(2) When the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairperson or, as the case may be, such one of the Member as the Central Government may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Term of office.

7. The Chairperson, the Vice-Chairperson or a Member shall hold office as such for a term of three years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of three years:

Provided that no Chairperson, Vice-Chairperson or Member shall hold office as such after he has attained,—

(a) in the case of the Chairperson, the age of seventy years; and

(b) in the case of the Vice-Chairperson or a Member, the age of sixty-five years.

8. (1) The Chairperson, the Vice-Chairperson or a Member may, by notice in writing under his hand addressed to the President, resign his office:

Resignation
and removal.

Provided that the Chairperson, the Vice-Chairperson or a Member shall, unless he is permitted by the President to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The Chairperson, the Vice-Chairperson or a Member shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which such Chairperson, the Vice-Chairperson or a Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The President may suspend from office the Chairperson, the Vice-Chairperson or a Member in respect of whom a reference has been made to the Supreme Court under sub-section (2) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(4) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairperson, the Vice-Chairperson or a Member referred to in sub-section (2).

9. The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, the Vice-Chairperson and the Members shall be such as may be prescribed by the Central Government.

Salaries and
allowances
and other
terms and
conditions of
service of
Chairperson,
Vice-Chair-
person and
Members.

10. No act or proceedings of the Authority shall be questioned or shall be invalid merely on the ground of existence of any vacancy or defect in the establishment of the Authority.

Vacancy in
Authority not
to invalidate
acts or
proceedings.

CHAPTER III

JURISDICTION AND POWERS OF AUTHORITY

11. (1) Any person aggrieved by an order granting environmental clearance in the areas in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards may, within thirty days from the date of such order, prefer an appeal to the Authority in such form as may be prescribed:

Appeals to
Authority.

Provided that the Authority may entertain any appeal after the expiry of the said period of thirty days but not after ninety days from the date aforesaid if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) For the purposes of sub-section (1), "person" means—

(a) any person who is likely to be affected by the grant of environmental clearance;

(b) any person who owns or has control over the project with respect to which an application has been submitted for environmental clearance;

(c) any association of persons (whether incorporated or not) likely to be affected by such order and functioning in the field of environment;

(d) the Central Government, where the environmental clearance is granted by the State Government and the State Government, where the environmental clearance is granted by the Central Government; or

(e) any local authority, any part of whose local limits is within the neighbourhood of the area wherein the project is proposed to be located.

(3) On receipt of an appeal preferred under sub-section (1), the Authority shall, after giving the appellant an opportunity of being heard, pass such orders, as it thinks fit.

(4) The Authority shall dispose of the appeal within ninety days from the date of filing the appeal:

Provided that the Authority may for reasons to be recorded in writing, dispose of the appeal within a further period of thirty days.

Procedure and
powers of
Authority.

12. (1) The Authority shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made by the Central Government, the Authority shall have power to regulate its own procedure including the fixing of places and times of its inquiry and deciding whether to sit in public or in private.

5 of 1908.

(2) The Authority shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 requisitioning any public record or document or copy of such record or document from any office;

1 of 1872.

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing a representation for default or deciding it, *ex parte*;

(h) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*; and

(i) any other matter which is required to be, or may be, prescribed by the Central Government.

Financial and
administrative
powers of
Chairperson.

13. The Chairperson shall exercise such financial and administrative powers as may be vested in him under the rules:

Provided that the Chairperson shall have authority to delegate such of his financial and administrative powers as he may think fit to the Vice-Chairperson or any other officer subject to the condition that the Vice-Chairperson or such other officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairperson.

14. (1) The Central Government shall determine the nature and categories of the officers and other employees required to assist the Authority in the discharge of its functions and provide the Authority with such officers and other employees as it may think fit.

Staff of
Authority.

(2) The officers and other employees of the Authority shall discharge their functions under the general superintendence of the Chairperson.

(3) The salaries and allowances and conditions of service of the officers and other employees shall be such as may be prescribed.

CHAPTER IV

MISCELLANEOUS

15. With effect from the date of establishment of the Authority, no civil court or other authority shall have jurisdiction to entertain any appeal in respect of any matter with which the Authority is so empowered by or under this Act.

Bar of
jurisdiction.

16. All proceedings before the Authority shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

45 of 1860.

Proceedings
before the
Authority to
be judicial
proceedings.

17. The Chairperson, the Vice-Chairperson and the Members and the officers and other employees of the Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Members and
staff of
Authority to
be public
servants.

18. No suit, prosecution or other legal proceeding shall lie against the Central Government or against the Chairperson, the Vice-Chairperson or a Member of the Authority or any other person authorised by the Chairperson, the Vice-Chairperson or a Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Protection of
action taken in
good faith.

19. Whoever fails to comply with any order made by the Authority, he shall be punishable with imprisonment for a term which may extend to seven years, or with fine which may extend to one lakh rupees, or with both.

Penalty for
failure to
comply with
orders of
Authority.

20. (1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by
companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Power to
remove
difficulties.

21. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of three years from the date on which this Act receives the assent of the President.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power to make
rules.

22. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the procedure under sub-section (4) of section 8 for the investigation of misbehaviour or incapacity of the Chairperson, the Vice-Chairperson or a Member;

(b) the salaries and allowances payable to and the other terms and conditions of service of the Chairperson, the Vice-Chairperson and the Members under section 9;

(c) the form which an appeal shall contain under sub-section (1) of section 11;

(d) financial and administrative powers of the Chairperson under section 13;

(e) the salaries and allowances and conditions of service of the officers and other employees of the Authority;

(f) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and
saving.

23. (1) The National Environment Appellate Authority Ordinance, 1997 is hereby repealed.

Ord.
12 of 1997.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Sd/—

K. L. MOHANPURIA,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 22nd September, 1998.

No. RP/78/97/Act -26/97/E.—The following Act of Parliament is re-published for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 14th May, 1997/ Vaishakha 24, 1919 (Saka)

The following Act of Parliament received the assent of the President on the 14th May, 1997 and is hereby published for general information :—

THE FINANCE ACT, 1997.

(Act No. 26. of 1997)

(14th May, 1997)

AN ACT

to give effect to the financial proposals of the Central Government for the financial year 1997-98.

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Finance Act, 1997.

(2) Save as otherwise provided in this Act, sections 2 to 61 shall be deemed to have come into force on the 1st day of April, 1997.

Short title
and com-
mencement.

CHAPTER II

RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 1997, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased in the cases to which Paragraph E of that Part applies, by a surcharge, calculated in the manner provided therein.

Income-tax.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding six hundred rupees, in addition to total income, and the total income exceeds forty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first forty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of forty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be:

43 of 1961.

Provided that the amount of income-tax computed in accordance with the provisions of sections 112 and 113 of the Income-tax Act shall be increased in the case of a domestic company by a surcharge as provided in Paragraph-E of Part I of the First Schedule:

Provided further that in respect of any income chargeable to tax under section 115B, or in the case of a domestic company having a total income exceeding seventy-five thousand rupees under section 115BB of the Income-tax Act, the income-tax computed shall be increased by a surcharge calculated at the rate of seven-and-a-half per cent. of such income-tax.

(4) In cases in which tax has to be charged and paid under section 115-O of the Income-tax Act, the tax shall be charged and paid at the rate specified in that section.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule.

(6) In cases in which tax has to be deducted under sections 194C, 194G, 194-I, 194J and 194K of the Income-tax Act, the deduction shall be made at the rates specified in those sections.

(7) In cases in which tax has to be collected under section 206C or under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in that section or at the rate specified in Part II of the First Schedule, as the case may be.

(8) Subject to the provisions of sub-section (9), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be.

(9) In cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding six hundred rupees, in addition to total income and the total income exceeds forty thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first forty thousand rupees of the total income but without being liable to tax], only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of forty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income.

(10) For the purposes of this section and the First Schedule,—

(a) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1997, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

3. In section 10 of the Income-tax Act, with effect from the 1st day of April, 1998,—

(a) after clause (6B), the following clause shall be inserted, namely:—

(6BB) Where in the case of the Government of a foreign State or a foreign enterprise deriving income from an Indian company engaged in the business of operation of aircraft, as a consideration of acquiring an aircraft or an aircraft engine (other than payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease under an agreement entered after the 31st day of March, 1997 and approved by the Central Government in this behalf and the tax on such income is payable by such Indian company under the terms of that agreement to the Central Government, the tax so paid.

Explanation.—For the purposes of this clause, the expression "foreign enterprise" means a person who is a non-resident;

(b) in clause (15), in sub-clause (iv), after item (i), in the *Explanation*, after clause (b), the following clause shall be inserted, namely:—

"(ba) the business of providing telecommunication services; or";

(c) in clause (15A), after the words "under an agreement", the words, figures and letters "entered before the 1st day of April, 1997 and" shall be inserted;

(d) in clause (17), in sub-clause (iii), for the words "six hundred rupees per month", the words "two thousand rupees per month" shall be substituted;

(e) in clause (23F), in the *Explanation*, in clause (c), for the words "engaged in the", the words "engaged in the business of generation or generation and distribution of electricity or any other form of power or business of providing telecommunication services or in the" shall be substituted;

(f) in clause (23G),—

(i) the words, brackets, figures and letters "which fulfils the conditions specified in sub-section (4A) of section 80-IA" shall be omitted;

(ii) in the *Explanation*, for clause (c), the following clause shall be substituted, namely:—

"(c) "infrastructure facility" means—

(i) a road, highway, bridge, airport, port, rail system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette which fulfils the conditions specified in sub-section (4A) of section 80-IA;

(ii) a water supply project, irrigation project, sanitation and sewerage system; which fulfils the conditions specified in sub-section (4A) of section 80-IA;

(iii) a project for generation or generation and distribution of electricity or any other form of power where such project starts generating power on or after the 1st day of April, 1993;

(iv) a project for providing telecommunication services on or after the 1st day of April, 1995;

(g) clauses (26AA) and (28) shall be omitted;

(h) after clause (32), the following clause shall be inserted, namely:—

"(33) any income by way of dividends referred to in section 115-O."

4. In section 16 of the Income-tax Act, for clauses (i) and (ia), the following shall be substituted with effect from the 1st day of April, 1998, namely:—

"(i) a deduction of a sum equal to thirty-three and one-third per cent. of the salary or twenty thousand rupees, whichever is less.

Amendment
of section
10.

Amendment
of section
16.

Explanation.—For the removal of doubts, it is hereby declared that where, in the case of an assessee, salary is due from, or paid or allowed by, more than one employer, the deduction under this clause shall be computed with reference to the aggregate salary due, paid or allowed to the assessee and shall in no case exceed the amount specified under this clause;.”

Amendment
of section
35.

5. In section 35 of the Income-tax Act, after sub-section (2AA), the following sub-section shall be inserted with effect from the 1st day of April, 1998, namely:—

“(2AB)(1) Where a company engaged in the business of manufacture or production of any drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing notified by the Board incurs any expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility as approved by the prescribed authority, then, there shall be allowed a deduction of a sum equal to one and one-fourth times of the expenditure so incurred.

(2) No deduction shall be allowed in respect of the expenditure mentioned in clause (1) under any other provision of this Act.

(3) No company shall be entitled for deduction under clause (1) unless it enters into an agreement with the prescribed authority for cooperation in such research and development facility and for audit of the accounts maintained for that facility.

(4) The prescribed authority shall submit its report in relation to the approval of the said facility to the Director General in such form and within such time as may be prescribed.”

Insertion of
new section
35ABB.

6. After section 35AB of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996, namely:—

Expenditure
for obtaining
licence to
operate
telecommu-
nication
services.

“35ABB. (1) In respect of any expenditure, being in the nature of capital expenditure, incurred for acquiring any right to operate telecommunication services and for which payment has actually been made to obtain a licence, there shall, subject to and in accordance with the provisions of this section, be allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount of such expenditure.

Explanation.—For the purposes of this section,—

(i) “relevant previous years” means the previous years beginning with the previous year in which the licence fee is actually paid and the subsequent previous year or years during which the licence, for which the fee is paid, shall be in force;

(ii) “appropriate fraction” means the fraction the numerator of which is one and the denominator of which is the total number of the relevant previous years;

(iii) “payment has actually been made” means the actual payment of expenditure irrespective of the previous year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee.

(2) Where the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) are less than the expenditure incurred remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of the transfer, shall be allowed in respect of the previous year in which the licence is transferred.

(3) Where the whole or any part of the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) exceed the amount of the expenditure incurred remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred to obtain the licence and the amount of such expenditure remaining unallowed shall be chargeable to income-tax as profits and gains of the business in the previous year in which the licence has been transferred.

Explanation.—Where the licence is transferred in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(4) Where the whole or any part of the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) are not less than the amount of expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed under sub-section (1) in respect of the previous year in which the licence is transferred or in respect of any subsequent previous year or years.

(5) Where a part of the licence is transferred in a previous year and sub-section (3) does not apply, the deduction to be allowed under sub-section (1) for expenditure incurred remaining unallowed shall be arrived at by—

(a) subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed; and

(b) dividing the remainder by the number of relevant previous years which have not expired at the beginning of the previous year during which the licence is transferred.

(6) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers the licence to the amalgamated company (being an Indian company),—

(i) the provisions of sub-sections (2), (3) and (4) shall not apply in the case of the amalgamating company; and

(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not transferred the licence.”

7. In section 36 of the Income-tax Act,—

(a) in sub-section (1),—

(i) in clause (vii), in the proviso, for the words “a bank”, the words “an assessee” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1992;

(ii) in clause (viii), with effect from the 1st day of April, 1998,—

(A) for the words “special reserve created”, the words “special reserve created and maintained” shall be substituted;

(B) in the Explanation, for clause (d), the following clause shall be substituted, namely,—

“(d) “infrastructure facility” shall have the meaning assigned to it in clause (23G) of section 10.”

(b) in sub-section (2), for clause (v), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1992, namely:—

“(v) where such debt or part of debt relates to advances made by an assessee to which clause (viii) of sub-section (1) applies, no such deduction shall be allowed unless the assessee has debited the amount of such debt or part of debt in that previous year to the provision for bad and doubtful debts account made under that clause.”

8. In section 37 of the Income-tax Act, sub-sections (2), (3), (4) and (5) shall be omitted with effect from the 1st day of April, 1998.

9. In section 41 of the Income-tax Act, with effect from the 1st day of April, 1998,—

(a) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) Where a deduction has been allowed in respect of any special reserve created and maintained under clause (viii) of sub-section (1) of section 36, any amount subsequently withdrawn from such special reserve shall be deemed to be the profits and gains of business or profession and accordingly be chargeable to income-tax as the income of the previous year in which such amount is withdrawn.

Explanation.—Where any amount is withdrawn from the special reserve in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.”

(b) in sub-section (5), for the words, brackets and figure “or sub-section (4)”, the words, brackets, figures and letter “, sub-section (4) or sub-section (4A)” shall be substituted.

10. In section 44AA of the Income-tax Act, in sub-section (2), in clause (ii), for the words “during such previous year”, the following shall be substituted with effect from the 1st day of April, 1998, namely:—

“during such previous year; or

(iii) where the profits and gains from the business are deemed to be the profits and gains of the assessee under section 44AD or section 44AE or section 44AF, as the case may be, and the assessee has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, during such previous year.”

11. In section 44AB of the Income-tax Act, in clause (b), for the words “previous year”, the following shall be substituted with effect from the 1st day of April, 1998, namely:—

“previous year; or

(c) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under section 44AD or section 44AE or section 44AF, as the case may be, and he has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, in any previous year.”

12. In section 44AD of the Income-tax Act,—

(i) in sub-section (2), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1994, namely:—

“Provided that where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (b) of section 40.”

(ii) sub-section (5) shall be omitted.

Amendment
of section
36.

Amendment of
section 37.

Amendment
of section
41.

Amendment
of section
44AA.

Amendment
of section
44AB.

Amendment of
section 44AD.

Amendment of
section 44AE.

13. In section 44AE of the Income-tax Act,—

(i) in sub-section (3), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1994, namely:—

"Provided that where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (b) of section 40.";

(ii) sub-section (6) shall be omitted.

Insertion of
new section
44AF.

Special
provisions
for comput-
ing profits
and gains of
retail-
business.

14. After section 44AE of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1998, namely:—

'44AF. (1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee engaged in retail trade in any goods or merchandise, a sum equal to five per cent. of the total turnover in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum as declared by the assessee in his return of income shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

Provided that nothing contained in this sub-section shall apply in respect of an assessee whose total turnover exceeds an amount of forty lakh rupees in the previous year.

(2) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed :

Provided that where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (b) of section 40.

(3) The written down value of any asset used for the purpose of the business referred to in sub-section (1) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(4) The provisions of sections 44AA and 44AB shall not apply in so far as they relate to the business referred to in sub-section (1) and in computing the monetary limits under those sections, the total turnover or, as the case may be, the income from the said business shall be excluded.

Amendment
of section
44B.

15. In section 44B of the Income-tax Act, after sub-section (2), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely:—

"*Explanation.*—For the purposes of this sub-section, the amount referred to in clause (i) or clause (ii) shall include the amount paid or payable or received or deemed to be received, as the case may be, by way of demurrage charges or handling charges or any other amount of similar nature."

Amendment
of section
47.

16. In section 47 of the Income-tax Act, after clause (x), the following clauses shall be inserted with effect from the 1st day of April, 1998, namely:—

(xi) any transfer made on or before the 31st day of December, 1997 by a person (not being a company) of a capital asset being membership of a recognised stock exchange to a company in exchange of shares allotted by that company to the transferor.

Explanation.—For the purposes of this clause, the expression "membership of a recognised stock exchange" means the membership of a stock exchange in India which is recognised under the provisions of the Securities Contract (Regulation) Act, 1956;

(xii) any transfer of a capital asset, being land of a sick industrial company, made under a scheme prepared and sanctioned under section 18 of the Sick Industrial Companies (Special Provisions) Act, 1985 where such sick industrial company is being managed by its workers' co-operative;

Provided that such transfer is made during the period commencing from the previous year in which the said company has become a sick industrial company under sub-section (1) of section 17 of that Act and ending with the previous year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

Explanation.—For the purposes of this clause, "net worth" shall have the meaning assigned to it in clause (ga) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985.

Amendment
of section
47A.

17. Section 47A of the Income-tax Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted with effect from the 1st day of April, 1998, namely:—

(2) Where at any time, before the expiry of a period of three years from the date of the transfer

42 of 1956.

1 of 1986.

1 of 1986.

of a capital asset referred to in clause (xi) of section 47, any of the shares allotted to the transferor in exchange of a membership in a recognised stock exchange are transferred, the amount of profits and gains not charged under section 45 by virtue of the provisions contained in clause (xi) of section 47 shall, notwithstanding anything contained in the said clause, be deemed to be the income chargeable under the head "Capital gains" of the previous year in which such shares are transferred.

18. In section 48 of the Income-tax Act, after the second proviso, the following proviso shall be inserted with effect from the 1st day of April, 1998, namely:—

Amendment
of section 48.

"Provided also that nothing contained in the second proviso shall apply to the long-term capital gain arising from the transfer of a long-term capital asset being bond or debenture other than capital indexed bonds issued by the Government."

19. In section 55 of the Income-tax Act, with effect from the 1st day of April, 1998,—

Amendment
of section 55.

(a) in sub-section (1), in clause (b), in sub-clause (1), after the words "goodwill of a business", the words "or a right to manufacture, produce or process any article or thing" shall be inserted;

(b) in sub-section (2), in clause (a), after the words "being goodwill of a business", the words "or a right to manufacture, produce or process any article or thing" shall be inserted.

20. In section 57 of the Income-tax Act, in clause (iia), for the words "twelve thousand rupees", the words "fifteen thousand rupees" shall be substituted with effect from the 1st day of April, 1998.

Amendment
of section 57.

21. Section 80AA of the Income-tax Act shall be omitted with effect from the 1st day of April, 1998.

Omission of
section 80AA.

22. In section 80AB of the Income-tax Act, the brackets, words, figures and letter "(except section 80M)" shall be omitted with effect from the 1st day of April, 1998.

Amendment of
section 80AB.

23. In section 80G of the Income-tax Act, with effect from the 1st day of April, 1998,—

Amendment of
section 80G.

(a) in sub-section (1), in clause (i), after the word, brackets, figures and letters "sub-clause (iiihe)", the words, brackets, figures and letters "or sub-clause (iiihf)" shall be inserted;

(b) in sub-section (2), in clause (a), after sub-clause (iiihe), the following sub-clause shall be inserted, namely:—

"(iiihf) the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union territory, as the case may be;

Provided that such Fund is—

(a) the only Fund of its kind established in the State or the Union territory, as the case may be;

(b) under the overall control of the Chief Secretary or the Department of Finance of the State or the Union territory, as the case may be;

(c) administered in such manner as may be specified by the State Government or the Lieutenant Governor, as the case may be; or".

24. Section 80GG of the Income-tax Act shall be omitted with effect from the 1st day of April, 1998.

Omission of
section 80GG.

25. In section 80-IA of the Income-tax Act,—

Amendment of
section 80-IA.

(a) in sub-section (1), after the words "scientific and industrial research and development",—

(i) the words "or providing telecommunication services whether basic or cellular" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996;

(ii) after the words "or providing telecommunication services whether basic or cellular" as so inserted, the words "or operating an industrial park or commercial production of mineral oil in the North-Eastern Region" shall be inserted with effect from the 1st day of April, 1998;

(b) in sub-section (4), with effect from the 1st day of April, 1998,—

(i) for the portion beginning with the words "This section applies—" and ending with the words, brackets and figures "either of the conditions (iii) or (iv) are fulfilled, namely:—", the following shall be substituted, namely:—

"This section applies to the business of any hotel—

(a) where conditions (i), (ii) and (v); and

(b) either of the conditions (iii) or (iv); or

(c) either of the conditions (iiia) or (iva),

are fulfilled, namely:—";

(ii) after clause (iii), the following clause shall be inserted, namely:—

"(iiia) the business of the hotel, located in a hilly area or a rural area or a place of pilgrimage or such other place as the Central Government may, having regard to the need for development of infrastructure for tourism in any place and other relevant

considerations, specify for the purpose of this clause, starts functioning at any time during the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2001:

Provided that nothing contained in this clause shall apply to any hotel located at a place within the municipal jurisdiction (whether known as a municipality, municipal corporation, notified area committee, town area committee or a cantonment board or by any other name) of Calcutta, Chennai, Delhi and Mumbai;";

(iii) after clause (iv), the following clause shall be inserted, namely:—

"(iva) the business of the hotel, located in a place other than a place referred to in clause (iia) of this sub-section and not being located at a place within the municipal jurisdiction (whether known as a municipality, municipal corporation, notified area committee, town area committee or a cantonment board or by any other name) of Calcutta, Chennai, Delhi and Mumbai, starts functioning at any time during the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2001;";

(c) after sub-section (4B), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996, namely:—

"(4C) This section applies to any undertaking which starts providing telecommunication services whether basic or cellular at any time on or after the 1st day of April, 1995 but before the 31st day of March, 2000;";

(d) after sub-section (4C) as so inserted, the following sub-sections shall be inserted with effect from the 1st day of April, 1998, namely:—

"(4D) This section applies to any undertaking which begins to operate an industrial park notified by the Central Government in accordance with the scheme framed and notified by that Government for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002.

(4E) This section applies to any undertaking which begins commercial production of mineral oil in the North-Eastern Region;";

(e) in sub-section (5),—

(i) after clause (ib), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996, namely:—

"(ic) in the case of an undertaking referred to in sub-section (4C), hundred per cent. of the profits and gains derived from such business for the initial five assessment years and thereafter, twenty-five per cent. of the profits and gains derived from such business;

Provided that where the assessee is a company, the provisions of this clause shall have effect as if for the words "twenty-five per cent.", the words "thirty per cent." had been substituted;";

(ii) after clause (ic), as so inserted, the following clause shall be inserted with effect from the 1st day of April, 1998, namely:—

"(id) in the case of an industrial park referred to in sub-section (4D), hundred per cent. of the profits and gains derived from such business for the initial five assessment years and thereafter, twenty-five per cent. of the profits and gains derived from such business;

Provided that where the assessee is a company, the provisions of this clause shall have effect as if for the words "twenty-five per cent.", the words "thirty per cent." had been substituted;";

(iii) after clause (ii), the following clause shall be inserted with effect from the 1st day of April, 1998, namely:—

"(iia) in the case of a hotel referred to in clause (iia) of sub-section (4), fifty per cent. of the profits and gains derived from the business of such hotel;

Provided that the said hotel is approved by the prescribed authority for the purposes of this clause in accordance with the rules made under this Act;";

(iv) in clause (iii), after the word, brackets and figures "clause (iv)", the words, brackets, figures and letter "or clause (iva)" shall be inserted with effect from the 1st day of April, 1998;

(v) after clause (iv), the following clause shall be inserted with effect from the 1st day of April, 1998, namely:—

"(v) in the case of undertaking referred to in sub-section (4E) hundred per cent. of profits and gains derived from such business for the initial seven assessment years;";

(f) in sub-section (6),—

(i) after clause (v), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996, namely:—

"(vi) ten in the case of an assessee, being an undertaking referred to in sub-section (4C), deriving profits and gains from telecommunication services whether basic or cellular;";

(ii) after clause (vi) as so inserted, the following clauses shall be inserted with effect from the 1st day of April, 1998, namely:—

“(vii) ten in the case of an assessee, being an undertaking referred to in sub-section (4D), deriving profits and gains from operating an industrial park;

(viii) seven in the case of an assessee being an undertaking referred to in sub-section (4E) deriving profits and gains from commercial production of mineral oil in the North-Eastern Region;”;

(g) in sub-section (12), in clause (c),—

(i) after sub-clause (3), the following sub-clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996, namely:—

“(4) in the case of an undertaking referred to in sub-section (4C) means the assessment year relevant to the previous year in which the undertaking starts to provide the telecommunication services whether basic or cellular;”;

(ii) after sub-clause (4) as so inserted, the following sub-clauses shall be inserted with effect from the 1st day of April, 1998, namely:—

“(5) in the case of an undertaking operating an industrial park referred to in sub-section (4D) means the assessment year relevant to the previous year in which the undertaking starts operating such industrial park notified for the purposes of the said sub-section;

(6) in the case of an undertaking engaged in the business of commercial production of mineral oil referred to in sub-section (4E) means the assessment year relevant to the previous year in which the undertaking commences the commercial production of mineral oil;”;

(iii) after clause (f), the following clause shall be inserted with effect from the 1st day of April, 1998, namely:—

“(g) “North-Eastern Region” means the region comprising of the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura.”

26. Section 80JJ of the Income-tax Act shall be omitted with effect from the 1st day of April, 1998.

Omission of section 80JJ.

27. In section 80L of the Income-tax Act, in sub-section (1) with effect from the 1st day of April, 1998,—

Amendment of section 80L.

(a) clause (iv) shall be omitted;

(b) in clause (x), the words “, or dividend received from,” shall be omitted;

(c) in the proviso, for the word, brackets and figures “clause (iv)”, the word, brackets and figure “clause (i)” shall be substituted.

28. Section 80M of the Income-tax Act shall be omitted with effect from the 1st day of April, 1998.

Omission of section 80M.

29. In section 80-O of the Income-tax Act, for the portion beginning with the words “any income by way of royalty” and ending with the words “outside India to such Government or enterprise by the assessee”, the words “any income received by the assessee from the Government of a foreign State or foreign enterprise in consideration for the use outside India of any patent, invention, design or registered trade mark” shall be substituted with effect from the 1st day of April, 1998.

Amendment of section 80-O.

30. In section 88 of the Income-tax Act, in sub-section (2), in clause (xvi), with effect from the 1st day of April, 1998,—

Amendment of section 88.

(i) after the words “by a public company”, the words “or as subscription to any eligible issue of capital by any public financial institution” shall be inserted:

(ii) in the Explanation,—

(A) for clause (i), the following clause shall be substituted, namely:—

“(i) “eligible issue of capital” means an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue is utilised wholly and exclusively either for the purposes of developing, maintaining and operating an infrastructure facility or for generating, or for generating and distributing, power or for providing telecommunication services whether basic or cellular;”;

(B) after clause (iii), the following clause shall be inserted, namely:—

“(iv) “public financial institution” shall have the meaning assigned to it in section 4A of the Companies Act, 1956.”

Substitution of new section for section 88B.

31. For section 88B of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1998, namely:—

Rebate of income-tax in case of individuals of sixty-five years or above.

"88B. An assessee, being an individual resident in India, who is of the age of sixty-five years or more at any time during the previous year shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income, with which he is chargeable for any assessment year, of an amount equal to hundred per cent. of such income-tax or an amount of ten thousand rupees, whichever is less."

Amendment of section 115A.

32. In section 115A of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1998,—

(a) in clause (a), for the word "dividends", wherever it occurs, the words "dividends other than dividends referred to in section 115-O" shall be substituted;

(b) in clause (b), for sub-clauses (A) and (B), the following sub-clauses shall be substituted, namely:—

"(A) the amount of income-tax calculated on the income by way of royalty, if any, included in the total income, at the rate of thirty per cent. if such royalty is received in pursuance of an agreement made on or before the 31st day of May, 1997 and twenty per cent. where such royalty is received in pursuance of an agreement made after the 31st day of May, 1997;

(B) the amount of income-tax calculated on the income by way of fees for technical services, if any, included in the total income, at the rate of thirty per cent. if such fees for technical services are received in pursuance of an agreement made on or before the 31st day of May, 1997 and twenty per cent. where such fees for technical services are received in pursuance of an agreement made after the 31st day of May, 1997; and"

Amendment of section 115AC.

33. In section 115AC of the Income-tax Act, for the word "dividends", wherever it occurs, the words "dividends other than dividends referred to in section 115-O" shall be substituted with effect from the 1st day of April, 1998.

Amendment of section 115AD.

34. In section 115AD of the Income-tax Act, in sub-section (1), in clause (a), for the words, "income", the words "income other than income by way of dividends referred to in section 115-O" shall be substituted with effect from the 1st day of April, 1998.

Amendment of section 115C.

35. In section 115C of the Income-tax Act, in clause (c), for the words "income derived", the words, figures and letter "income derived other than dividends referred to in section 115-O" shall be substituted with effect from the 1st day of April, 1998.

Substitution of new section for section 115E.

36. For section 115E of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1998, namely:—

Tax on investment income and long-term capital gains.

"115E. Where the total income of an assessee, being a non-resident Indian, includes—

(a) any income from investment or income from long-term capital gains of an asset other than a specified asset;

(b) income by way of long-term capital gains,

the tax payable by him shall be the aggregate of—

(i) the amount of income-tax calculated on the income in respect of investment income referred to in clause (a), if any, included in the total income, at the rate of twenty per cent.;

(ii) the amount of income-tax calculated on the income by way of long-term capital gains referred to in clause (b), if any, included in the total income, at the rate of ten per cent.; and

(iii) the amount of income-tax with which he would have been chargeable had his total income been reduced by the amount of income referred to in clauses (a) and (b)."

Amendment of section 115JA.

37. In section 115JA of the Income-tax Act, in sub-section (2),—

(a) in clause (vii), in the Explanation, the word "or" shall be inserted at the end;

(b) after clause (vii) as so amended, the following clause shall be inserted with effect from the 1st day of April, 1998, namely:—

"(viii) the amount of profits eligible for deduction under section 80HHC, computed under clause (a), (b) or (c) of sub-section (3) or sub-section (3A), as the case may be, of that section, and subject to the conditions specified in sub-sections (4) and (4A) of that section;

(ix) the amount of profits eligible for deduction under section 80HHE, computed under sub-section (3) of that section."

38. After section 115JA of the Income-tax Act, the following section shall be inserted, namely:—

Insertion of new section 115JAA.

"115JAA. (1) Where any amount of tax is paid under sub-section (1) of section 115JA by an assessee being a company for any assessment year, then, credit in respect of tax so paid shall be allowed to him in accordance with the provisions of this section.

Tax credit in respect of tax paid on deemed income relating to certain companies.

(2) The tax credit to be allowed under sub-section (1) shall be the difference of the tax paid for any assessment year under sub-section (1) of section 115JA and the amount of tax payable by the assessee on his total income computed in accordance with the other provisions of this Act:

Provided that no interest shall be payable on the tax credit allowed under sub-section (1).

(3) The amount of tax credit determined under sub-section (2) shall be carried forward and set off in accordance with the provisions of sub-section (4) and sub-section (5) but such carry forward shall not be allowed beyond the fifth assessment year immediately succeeding the assessment year in which tax credit becomes allowable under sub-section (1).

(4) The Tax credit shall be allowed set-off in a year when tax becomes payable on the total income computed in accordance with the provisions of this Act other than section 115JA.

(5) Set off in respect of brought forward tax credit shall be allowed for any assessment year to the extent of the difference between the tax on his total income and the tax which would have been payable under the provisions of sub-section (1) of section 115JA for that assessment year.

(6) Where as a result of an order under sub-section (1) or sub-section (3) of section 143, section 144, section 147, section 154, section 155, sub-section (4) of section 245D, section 250, section 254, section 260, section 262, section 263 or section 264, the amount of tax payable under this Act is reduced or increased, as the case may be, the amount of tax credit allowed under this section shall also be increased or reduced accordingly."

39. Chapter XII-C of the Income-tax Act shall be omitted with effect from the 1st day of April, 1998.

Omission of Chapter XII-C.

40. After section 115N of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of June, 1997, namely:—

Insertion of new Chapter XII-D.

CHAPTER XII-D

SPECIAL PROVISIONS RELATING TO TAX ON DISTRIBUTED PROFITS OF DOMESTIC COMPANIES

115-O. (1) Notwithstanding anything contained in any other provision of this Act and subject to the provisions of this section, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, any amount declared, distributed or paid by such company by way of dividends (whether interim or otherwise) on or after the 1st day of June, 1997, whether out of current or accumulated profits shall be charged to additional income-tax (hereafter referred to as tax on distributed profits) at the rate of ten per cent.

Tax on distributed profits of domestic companies.

(2) Notwithstanding that no income-tax is payable by a domestic company on its total income computed in accordance with the provisions of this Act, the tax on distributed profits under sub-section (1) shall be payable by such company.

(3) The principal officer of the domestic company and the company shall be liable to pay the tax on distributed profits to the credit of the Central Government within fourteen days from the date of—

- (a) declaration of any dividend; or
- (b) distribution of any dividend; or
- (c) payment of any dividend,

whichever is earliest.

(4) The tax on distributed profits so paid by the company shall be treated as the final payment of tax in respect of the amount declared, distributed or paid as dividends and no further credit therefor shall be claimed by the company or by any other person in respect of the amount of tax so paid.

(5) No deduction under any other provision of this Act shall be allowed to the company or a shareholder in respect of the amount which has been charged to tax under sub-section (1) or the tax thereon.

115P. Where the principal officer of a domestic company and the company fails to pay the whole or any part of the tax on distributed profits referred to in sub-section (1) of section 115-O, within the time allowed under sub-section (3) of that section, he or it shall be liable to pay simple interest at the rate of two per cent. for every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

Interest payable for non-payment of tax by domestic companies.

115Q. If any principal officer of a domestic company and the company does not pay tax on distributed profits in accordance with the provisions of section 115-O, then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.

When company is deemed to be in default.

Explanation.—For the purposes of this Chapter, the expression “dividends” shall have the same meaning as is given to “dividend” in clause (22) of section 2 but shall not include sub-clause (e) thereof.

Amendment of
section 132.

41. In section 132 of the Income-tax Act,—

(a) in sub-section (8), for the words “Chief Commissioner or Commissioner”, at both the places where they occur, the words “Chief Commissioner, Commissioner, Director General or Director” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 1996;

(b) in sub-section (10), for the words “Chief Commissioner or Commissioner”, the words “Chief Commissioner, Commissioner, Director General or Director” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 1996.

Amendment of
section 139.

42. In section 139 of the Income-tax Act, in sub-section (1),—

(i) the following proviso shall be inserted, namely:—

“Provided that a person, not furnishing return under this sub-section and residing in such area as may be specified by the Board in this behalf by a notification in the Official Gazette, and who at any time during the previous year fulfils any two of the following conditions, namely:—

(i) is in occupation of an immovable property exceeding a specified floor area, whether by way of ownership, tenancy or otherwise, as may be specified by the Board in this behalf; or

(ii) is the owner or the lessee of a motor vehicle; or

(iii) is a subscriber to a telephone; or

(iv) has incurred expenditure for himself or any other person on travel to any foreign country,

shall furnish a return, of his income during the previous year, on or before the due date in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.”;

(ii) after *Explanation 2*, the following *Explanation* shall be inserted, namely:—

Explanation 3.—For the purposes of this sub-section, the expression “motor vehicle” shall have the meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988.

59 of 1998.

Amendment of
section 143.

43. In section 143 of the Income-tax Act, in sub-section (1), in clause (a), with effect from the 1st day of April, 1998,—

(i) for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that an intimation shall be sent to the assessee whether or not any adjustment has been made under the first proviso and notwithstanding that no tax or interest is due from him.”;

(ii) in the third proviso, the words “for any tax or interest due” shall be omitted.

Amendment of
section 167A.

44. In section 167A of Income-tax Act, for the words “maximum marginal rate”, the words “rate as specified in the Finance Act of the relevant year” shall be substituted with effect from the 1st day of April, 1998.

Amendment of
section 172.

45. In section 172 of the Income-tax Act, after sub-section (7), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely:—

“(8) For the purposes of this section, the amount referred to in sub-section (2) shall include the amount paid or payable by way of demurrage charge or handling charge or any other amount of similar nature.”.

Amendment of
section 193.

46. In section 193 of the Income-tax Act, in the proviso, with effect from the 1st day of June, 1997,—

(a) clause (iiia) shall be omitted;

(b) for clause (iv), the following clause shall be substituted, namely:—

“(iv) any interest payable on any security of the Central Government or a State Government.”.

Amendment of
section 194.

47. In section 194 of the Income-tax Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 1997, namely:—

“Provided further that no such deduction shall be made in respect of any dividends referred to in section 115-0.”.

Amendment of
section 194B.

48. In section 194B of the Income-tax Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 1997, namely:—

"Provided further that in a case where the winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings."

49. In section 195 of the Income-tax Act, in sub-section (1), after the first proviso, the following proviso shall be inserted with effect from the 1st day of June, 1997, namely:—

Amendment of section 195.

"Provided further that no such deduction shall be made in respect of any dividends referred to in section 115-O."

50. In section 196C of the Income-tax Act, the following proviso shall be inserted with effect from the 1st day of June, 1997, namely:—

Amendment of section 196C.

"Provided that no such deduction shall be made in respect of any dividends referred to in section 115-O."

51. In section 196D of the Income-tax Act, in sub-section (1), the following proviso shall be inserted with effect from the 1st day of June, 1997, namely:—

Amendment of section 196D.

"Provided that no such deduction shall be made in respect of any dividends referred to in section 115-O."

52. Section 206 of the Income-tax Act shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

Amendment of section 206.

"(2) Notwithstanding anything contained in any other law for the time being in force, a return filed on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media as may be specified by the Board (hereinafter referred to as the computer media) shall be deemed to be a return for the purposes of this section and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof of production of the original, as evidence of any contents of the original or of any fact stated therein.

(3) A return filed under sub-section (2) shall fulfil the following conditions, namely:—

(a) while receiving returns on computer media, necessary checks by scanning the documents filed on computer media will be carried out and the media will be duly authenticated by the Assessing Officer; and

(b) the Assessing Officer shall also take due care to preserve the computer media by duplicating, transferring, mastering or storage without loss of data."

53. In section 271C of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of June, 1997, namely:—

Amendment of section 271C.

"(1) If any person fails to—

(a) deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B; or

(b) pay the whole or any part of the tax as required by or under—

(i) sub-section (3) of section 115-O; or

(ii) the second proviso to section 194B,

then, such person shall be liable to pay, by way of penalty, a sum equal to the amount of tax which such person failed to deduct or pay as aforesaid."

54. After section 271E of the Income-tax Act, the following section shall be inserted, namely:—

Insertion of new section 271F.

"271F. If a person who is required to furnish a return of his income as required by the proviso to sub-section (1) of section 139 fails to furnish such return on or before the due date, he shall be liable to pay by way of penalty, a sum of five hundred rupees."

Penalty for failure to furnish return of income.

55. In section 273B of the Income-tax Act, after the word, figures and letter "section 271E", the word, figures and letter "section 271F" shall be inserted.

Amendment of section 273B.

56. For section 276B of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 1997, namely:—

Substitution of new section for section 276B.

"276B. If a person fails to pay to the credit of the Central Government,—

(a) the tax deducted at source by him as required by or under the provisions of Chapter XVII-B; or

(b) the tax payable by him, as required by or under—

(i) sub-section (3) of section 115-O; or

(ii) the second proviso to section 194B,

Failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B.

he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine."

Amendment of section 281B. 57. In section 281B of the Income-tax Act, in sub-sections (1) and (2), for the words "Chief Commissioner or Commissioner", the words "Chief Commissioner, Commissioner, Director General or Director" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 1996.

Amendment of Schedule IV. 58. In Schedule IV to the Income tax Act, in Part A, in rule 6, in clause (a), for the word "ten", the word "twelve" shall be substituted with effect from the 1st day of April, 1998.

Interest-tax

Amendment of section 4. 59. In section 4 of the Interest-tax Act, 1974 (hereinafter referred to as the Interest-tax Act), in sub-section (2), the following proviso shall be inserted with effect from the 1st day of April, 1998, namely:—

45 of 1974.

"Provided that the rate at which interest-tax shall be charged in respect of any chargeable interest accruing or arising after the 31st day of March, 1997 shall be two per cent. of such chargeable interest."

Amendment of section 21. 60. In section 21 of the Interest-tax Act, after the figures and brackets "2(44)", the figures "119" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1991.

Expenditure-tax

Amendment of section 4 of Act 35 of 1987. 61. In section 4 of the Expenditure-tax Act, 1987, in clause (a), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 1998, namely:—

"Provided further that nothing in this clause shall apply in the case of a hotel referred to in clause (iia) of sub-section (5) of section 80-IA of the Income-tax Act, 1961 during the period beginning on the 1st day of April, 1998 and ending on the 31st day of March, 2008."

43 of 1961.

CHAPTER IV

THE VOLUNTARY DISCLOSURE OF INCOME SCHEME, 1997

Short title and commencement. 62. (1) This Scheme may be called the Voluntary Disclosure of Income Scheme, 1997.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions. 63. In this Scheme, unless the context otherwise requires,—

(a) "declarant" means a person making the declaration under sub-section (1) of section 64;

(b) "Income-tax Act" means the Income-tax Act, 1961;

43 of 1961.

(c) "Wealth-tax Act" means the Wealth-tax Act, 1957;

27 of 1957.

(d) all other words and expressions used in this Scheme but not defined and defined in the Income-tax Act or the Wealth-tax Act shall have the meanings respectively assigned to them in those Acts.

Charge of tax on voluntarily disclosed income. 64. (1) Subject to the provisions of this Scheme, where any person makes, on or after the date of commencement of this Scheme but on or before the 31st day of December, 1997, a declaration in accordance with the provisions of section 65 in respect of any income chargeable to tax under the Income-tax Act for any assessment year—

(a) for which he has failed to furnish a return under section 139 of the Income-tax Act;

(b) which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the date of commencement of this Scheme;

(c) which has escaped assessment by reason of the omission or failure on the part of such person to make a return under the Income-tax Act or to disclose fully and truly all material facts necessary for his assessment or otherwise,

then, notwithstanding anything contained in the Income-tax Act or in any Finance Act, income-tax shall be charged in respect of the income so declared (such income being hereinafter referred to as the voluntarily disclosed income) at the rates specified hereunder, namely:—

(i) in the case of a declarant, being a company or a firm, at the rate of thirty five per cent. of the voluntarily disclosed income;

(ii) in the case of a declarant, being a person other than a company or a firm, at the rate of thirty per cent. of the voluntarily disclosed income.

(2) Nothing contained in sub-section (1) shall apply in relation to—

(i) the income assessable for any assessment year for which a notice under section 142 or section 148 of the Income-tax Act has been served upon such person and the return has not been furnished before the commencement of this Scheme;

(ii) the income in respect of the previous year in which a search under section 132 of the Income-tax Act was initiated or requisition under section 132A of the Income-tax Act was made, or survey under section 133A of the Income-tax Act was carried out or in respect of any earlier previous year.

65. (1) A declaration under sub-section (1) of section 64 shall be made to the Commissioner and shall be in such form and shall be verified in such manner as may be prescribed.

Particulars to be furnished in declaration.

(2) The declaration shall be signed,—

(a) where the declarant is an individual, by the individual himself; where such individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) where the declarant is a Hindu undivided family, by the karta, and where the karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(c) where the declarant is a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign the declaration or where there is no managing director, by any director thereof;

(d) where the declarant is a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign the declaration, or where there is no managing partner as such, by any partner thereof, not being a minor;

(e) where the declarant is any other association, by any member of the association or the principal officer thereof; and

(f) where the declarant is any other person, by that person or by some other person competent to act on his behalf.

(3) Any person, who has made a declaration under sub-section (1) of section 64 in respect of his income or as a representative assessee in respect of the income of any other person, shall not be entitled to make any other declaration, under that sub-section in respect of his income or the income of such other person, and any such other declaration, if made, shall be deemed to be void.

66. The tax payable under this Scheme in respect of the voluntarily disclosed income shall be paid by the declarant and the declaration shall be accompanied by proof of payment of such tax.

Time for payment of tax.

67. (1) Notwithstanding anything contained in section 66, the declarant may file a declaration without paying the tax under that section and the declarant may file the declaration and the declarant may pay the tax within three months from the date of filing of the declaration with simple interest at the rate of two per cent. for every month or part of a month comprised in the period beginning from the date of filing the declaration and ending on the date of payment of such tax and file the proof of such payment within the said period of three months.

Interest payable by declarant.

(2) If the declarant fails to pay the tax in respect of the voluntarily disclosed income before the expiry of three months from the date of filing of the declaration, the declaration filed by him shall be deemed never to have been made under this Scheme.

68. (1) The amount of the voluntarily disclosed income shall not be included in the total income of the declarant for any assessment year under the Income-tax Act, if the following conditions are fulfilled, namely:—

Voluntarily disclosed income not to be included in the total income.

(i) the declarant credits such amount in the books of account, if any, maintained by him for any source of income or in any other record, and intimates the credit so made to the Assessing Officer; and

(ii) the income-tax in respect of the voluntarily disclosed income is paid by the declarant within the time specified in section 66 or section 67.

(2) The Commissioner shall, on an application made by the declarant, grant a certificate to him setting forth the particulars of the voluntarily disclosed income and the amount of income-tax paid in respect of the same.

Voluntarily disclosed income not to affect finality of completed assessments, etc.

69. The declarant shall not be entitled, in respect of the voluntarily disclosed income or any amount of tax paid thereon, to reopen any assessment or reassessment made under the Income-tax Act or the Wealth-tax Act or claim any set off or relief in any appeal, reference or other proceeding in relation to any such assessment or reassessment.

Tax in respect of voluntarily disclosed income not refundable.

70. Any amount of tax paid in pursuance of a declaration made under sub-section (1) of section 64 shall not be refundable under any circumstances.

Declaration not admissible in evidence against declarant.

71. Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under sub-section (1) of section 64 shall be admissible in evidence against the declarant for the purpose of any proceeding relating to imposition of penalty or for the purposes of prosecution under the Income-tax Act or the Wealth-tax Act or the Foreign Exchange Regulation Act, 1973 or the Companies Act, 1956.

46 of 1973.
1 of 1956.

Secrecy of declaration.

72. (1) All particulars contained in a declaration made under sub-section (1) of section 64 shall be treated as confidential and, notwithstanding anything contained in any law for the time being in force, no court or any other authority shall be entitled to require any public servant or the declarant to produce before it any such declaration or any part thereof or to give any evidence before it in respect thereof.

(2) No public servant shall disclose any particulars contained in any such declaration except to any officer employed in the execution of the Income-tax Act or the Wealth-tax Act, or to any officer appointed by the Comptroller and Auditor-General of India or the Board to audit income-tax receipts or refunds.

Exemption from wealth-tax in respect of assets specified in declaration.

73. (1) Where the voluntarily disclosed income is represented by cash (including bank deposits), bullion, investment in shares, debts due from other persons, commodities or any other assets, specified in the declaration made under sub-section (1) of section 64—

(a) in respect of which the declarant has failed to furnish a return under section 14 of the Wealth-tax Act for the assessment year commencing on the 1st day of April, 1987 or any earlier assessment year or years, or

(b) which have not been shown in the return of net wealth furnished by him for the said assessment year or years, or

(c) which have been understated in value in the return of net wealth furnished by him for the said assessment year or years,

then, notwithstanding anything contained in the Wealth-tax Act or any rules made thereunder,—

(i) wealth-tax shall not be payable by the declarant in respect of the assets referred to in clause (a) or clause (b) and such assets shall not be included in his net wealth for the said assessment year or years;

(ii) the amount by which the value of the assets referred to in clause (c) has been understated in the return of net wealth for the said assessment year or years, to the extent such amount does not exceed the voluntarily disclosed income utilised for acquiring such assets, shall not be taken into account in computing the net wealth of the declarant for the said assessment year or years;

(iii) the value of the jewellery or bullion so declared shall be taken to be its market value as on the 1st day of April, 1987, where the disclosure is made in respect of an assessment year earlier than assessment year 1987-88, and for the purposes of this Chapter the expression "jewellery" shall have the same meaning assigned to it in Explanation 1 to clause (viii) of section 5 of the Wealth-tax Act.

Explanation.—Where a declaration under sub-section (1) of section 64 is made by a firm, the assets referred to in clause (i) or, as the case may be, the amount referred to in clause (ii) shall not be taken into account in computing the net wealth of any partner of the firm or, as the case may be, in determining the value of the interest of any partner in the firm.

(2) The provisions of sub-section (1) shall not apply unless the conditions specified in sub-section (1) of section 68 are fulfilled by the declarant.

Applicability of certain provisions of Income-tax Act, and of Chapter V of Wealth-tax Act.

74. The provisions of Chapter XV of the Income-tax Act relating to liability in special cases and of section 189 of that Act or of Chapter V of the Wealth-tax Act relating to liability to assessment in special cases shall, so far as may be, apply in relation to proceedings under this Scheme as they apply in relation to proceeding under the Income-tax Act or, as the case may be, the Wealth-tax Act.

75. For the removal of doubts, it is hereby declared that, save as otherwise expressly provided in the *Explanation* to sub-section (1) of section 73, nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Scheme.

Removal of doubts.

76. (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme come into force.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

77. (1) The Board may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for the form in which a declaration may be made under sub-section (1) of section 64 and the manner in which these may be verified.

(3) The Central Government shall cause every rule made under this Scheme to be laid as soon as may be after it is made before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

78. The provisions of this Scheme shall not apply—

Scheme not to apply to certain persons.

(a) to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974:

52 of 1974.

Provided that—

(i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

(ii) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9, of the said Act; or

(iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or

(iv) such order of detention has not been set aside by a court of competent jurisdiction;

(b) in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Terrorists and Disruptive Activities (Prevention) Act, 1987, the Prevention of Corruption Act, 1988 or for the purpose of enforcement of any civil liability;

45 of 1860.
61 of 1985.
28 of 1987.
49 of 1988.

(c) to any person notified under section 3 of the Special Court (Trial of Offences Relating to Transaction in Securities) Act, 1992.

27 of 1992.

CHAPTER V

INDIRECT TAXES

Customs

51 of 1975.

79. In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), after section 8A, the following section shall be inserted, namely:—

Insertion of new section 8B.

8B. (1) If the Central Government, after conducting such enquiry as it deems fit, is satisfied that any article is imported into India in such increased quantities and under such conditions so as to cause or threatening to cause serious injury to domestic industry, then, it may, by notification in the Official Gazette, impose a safeguard duty on that article:

Power of Central Government to impose safeguard duty.

Provided that no such duty shall be imposed on an article originating from a developing country so long as the share of imports of that article from that country does not exceed three per cent. or where the article is originating from more than one developing countries, then, so long as the aggregate of the imports from all such countries taken together does not exceed nine per cent. of the total imports of that article into India.

(2) The Central Government may, pending the determination under sub-section (1), impose a provisional safeguard duty under this sub-section on the basis of a preliminary determination that increased imports have caused or threatened to cause serious injury to a domestic industry:

Provided that where, on final determination, the Central Government is of the opinion that increased imports have not caused or threatened to cause serious injury to a domestic industry, it shall refund the duty so collected:

Provided further that the provisional safeguard duty shall not remain in force for more than two hundred days from the date on which it was imposed.

(3) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

(4) The duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of such imposition:

Provided that if the Central Government is of the opinion that the domestic industry has taken measures to adjust to such injury or threat thereof and it is necessary that the safeguard duty should continue to be imposed, it may extend the period of such imposition:

Provided further that in no case the safeguard duty shall continue to be imposed beyond a period of ten years from the date on which such duty was first imposed.

(5) The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which articles liable for safeguard duty may be identified and for the manner in which the causes of serious injury or causes of threat of serious injury in relation to such articles may be determined and for the assessment and collection of such safeguard duty.

(6) For the purposes of this section,—

(a) "developing country" means a country notified by the Central Government in the Official Gazette for the purposes of this section;

(b) "domestic industry" means the producers—

(i) as a whole of the like article or a directly competitive article in India; or

(ii) whose collective output of the like article or a directly competitive article in India constitutes a major share of the total production of the said article in India;

(c) "serious injury" means an injury causing significant overall impairment in the position of a domestic industry;

(d) "threat of serious injury" means a clear and imminent danger of serious injury.

(7) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

Amendment of
Act
51 of 1975.

80. The Customs Tariff Act shall be amended in the manner specified in the Second Schedule.

Excise.

Insertion of
new section
3A.
Determination
of Annual
Capacity of
Production of
the factory for
levy excise
duty.

81. After section 3 of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), the following section shall be inserted, namely:—

1 of 1944.

3A. (1) Notwithstanding anything contained in section 3, where the Central Government, having regard to the nature of the process of manufacture or production of excisable goods of any specified description, the extent of evasion of duty in regard to such goods or such other factors as may be relevant, is of the opinion that it is necessary to safeguard the interest of revenue, specify, by notification in the Official Gazette, such goods as notified goods and there shall be levied and collected duty of excise on such goods in accordance with the provisions of this section.

(2) Where a notification is issued under sub-section (1), the Central Government may, by rules, provide for determination of the annual capacity of production, or such factor or factors relevant to the annual capacity of production, of the factory in which such goods are produced, by the Commissioner of Central Excise and such annual capacity of production shall be deemed to be the annual production of such goods by such factory:

Provided that where a factory producing notified goods is in operation only during a part of the year, the production thereof shall be calculated on proportionate basis of the annual capacity of production.

(3) The duty of excise on notified goods shall be levied at such rate as the Central Government may by notification in the Official Gazette specify, and collected in such manner as may be prescribed:

Provided that, where a factory producing notified goods did not produce the notified goods during any continuous period of not less than seven days, duty calculated on a proportionate basis shall be abated in respect of such period if the manufacturer of such goods fulfils such conditions as may be prescribed.

(4) Where an assessee claims that the actual production of notified goods in his factory is lower than the production determined under sub-section (2), the Commissioner of Central Excise shall, after giving an opportunity to the assessee to produce evidence in support of his claim, determine the actual production and redetermine the amount of duty payable by the assessee with reference to such actual production at the rate specified in sub-section (3).

(5) Where the Commissioner of Central Excise determines the actual production under sub-section (4), the amount of duty already paid, if any, shall be adjusted against the duty so redetermined and if the duty already paid falls short of, or is in excess of, the duty so redetermined, the assessee shall pay the deficiency or be entitled to a refund, as the case may be.

(6) The provisions of this section shall not apply to goods produced or manufactured,—

(i) in a free trade zone and brought to any other place in India; or

(ii) by a hundred per cent. export-oriented undertaking and allowed to be sold in India.

Explanation 1.—For the removal of doubts, it is hereby clarified that for the purposes of section 3 of the Customs Tariff Act, 1975, the duty of excise leviable on the notified goods shall be deemed to be the duty of excise leviable on such goods under the Schedule to the Central Excise Tariff Act, 1985, read with any notification for the time being in force.

Explanation 2.—For the purposes of this section the expressions "free trade zone" and "hundred per cent. export-oriented undertaking" shall have the meanings assigned to them in section 3.

82. After section 4 of the Central Excise Act, the following section shall be inserted, namely:—

'4A. (1) The Central Government may, by notification in the Official Gazette, specify any goods, in relation to which it is required, under the provisions of the Standards of Weights and Measures Act, 1976 or the rules made thereunder or under any other law for the time being in force, to declare on the package thereof the retail sale price of such goods, to which the provisions of sub-section (2) shall apply.

(2) Where the goods specified under sub-section (1) are excisable goods and are chargeable to duty of excise with reference to value, then, notwithstanding anything contained in section 4, such value shall be deemed to be the retail sale price declared on such goods less such amount of abatement, if any, from such retail sale price as the Central Government may allow by notification in the Official Gazette.

(3) The Central Government may, for the purpose of allowing any abatement under sub-section (2), take into account the amount of duty of excise, sales tax and other taxes, if any, payable on such goods.

Explanation 1.— For the purpose of this section, "retail sale price" means the maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer and includes all taxes, local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like, as the case may be.

Explanation 2.— Where on any excisable goods more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price for the purposes of this section.

83. After section 14A of the Central Excise Act, the following section shall be inserted, namely:—

'14AA. (1) If the Commissioner of Central Excise has reason to believe that the credit of duty availed of or utilised under the rules made under this Act by a manufacturer of any excisable goods—

(a) is not within the normal limits having regard to the nature of the excisable goods produced or manufactured, the type of inputs used and other relevant factors, as he may deem appropriate;

Insertion of new section 4A.

Valuation of excisable goods with reference to retail sale price.

Insertion of new section 14AA.

Special audit in cases where credit of duty availed or utilised is not within the normal limits, etc.

51 of 1975.

5 of 1986.

60 of 1976.

(b) has been availed of or utilised by reason of fraud, collusion or any wilful mis-statement or suppression of facts,

he may direct such manufacturer to get the accounts of his factory, office, depot, distributor or any other place, as may be specified by him, audited by a cost accountant nominated by him.

(2) The cost accountant so nominated shall, within the period specified by the Commissioner of Central Excise, submit a report of such audit duly signed and certified by him to the said Commissioner mentioning therein such other particulars as may be specified.

(3) The provisions of sub-section (1) shall have effect notwithstanding that the accounts of the said manufacturer aforesaid have been audited under any other law for the time being in force or otherwise.

(4) The expenses of, and incidental to, such audit (including the remuneration of the cost accountant) shall be determined by the Commissioner of Central Excise (which determination shall be final) and paid by the manufacturer and in default of such payment shall be recoverable from the manufacturer in the manner provided in section 11 for the recovery of sums due to the Government.

(5) The manufacturer shall be given an opportunity of being heard in respect of any material gathered on the basis of the audit under sub-section (1) and proposed to be utilised in any proceeding under this Act or rules made thereunder.

Explanation.—For the purpose of this section, "cost accountant" shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959.

23 of 1959.

Amendment of section 38.

84. In section 38 of the Central Excise Act, in sub-section (2), after the words "every notification issued under", the words, figures and letters "section 3A, section 4A" shall be inserted.

Amendment of Act 5 of 1986.

85. The Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act) shall be amended in the manner specified in the Third Schedule.

Amendment of Act 3 of 1957.

86. The Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act) shall be amended in the manner specified in the Fourth Schedule.

Amendment as to duties on specified petroleum products in relation to a certain period and validation.

87. (1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 240(E) dated the 3rd day of May, 1997, which was issued in exercise of the powers conferred by rule 57A of the Central Excise Rules, 1944, to restrict credit of duties paid on specified petroleum products used as inputs in the manufacture of final products shall,—

(a) be deemed to have, and to have always had, effect on and from the 23rd day of July, 1996; and

(b) be deemed to prevail, and to have always prevailed, over all notifications issued on or after the 23rd day of July, 1996, but before the 3rd day of May, 1997, under rule 57A of the said rules in relation to specified petroleum products.

Explanation.—For the purposes of this section, "specified petroleum products" means naphtha, furnace oil, low sulphur heavy stock, light diesel oil, bitumen and paraffin wax falling under Chapter 27 of the Schedule to the Central Excise Tariff Act, 1985.

5 of 1986.

(2) Any action or thing taken or done or purported to have been taken or done on or after the 23rd day of July, 1996, and before the 3rd day of May, 1997, in relation to specified petroleum products, under the Central Excise Rules, 1944, read with notifications referred in clause (b) of sub-section (1), shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done as if the provisions of sub-section (1) had been in force at all material times and such action or thing had been taken or done under the Central Excise Rules, 1944, read with the notification dated the 3rd day of May, 1997, referred to in sub-section (1), and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) credit of duties restricted on or after the 23rd day of July, 1996, and before the 3rd day of May, 1997 on specified petroleum products, shall be deemed to be, and shall be deemed to have always been, as validly restricted, as if the provisions of this section had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court for allowing the credit; and no enforcement shall be made by any court of any decree or order allowing the credit, of duties which have been restricted and which would have been validly restricted if the provisions of this section had been in force at all material items;

(c) recovery shall be made of the credit of duties, which have not been restricted but which would have been so restricted if the provisions of this section had been in force at all material times, within a period of ninety days from the date of enactment of this Bill and the event of non-payment of such credit of duties within this period, in addition to the amount of credit of such duties recoverable, interest at the rate of eighteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of ninety days till the date of payment.

Explanation.— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

CHAPTER VI

SERVICETAX

88. In the Finance Act, 1994, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

Amendment of
Act
32 of 1994.

(1) for section 65, the following section shall be substituted, namely:—

Definitions.

'65. In this Chapter, unless the context otherwise requires,—

(1) "advertisement" includes any notice, circular, label, wrapper, document, hoarding or any other audio or visual representation made by means of light, sound, smoke or gas;

(2) "advertising agency" means any commercial concern engaged in providing any service connected with the making, preparation, display or exhibition of advertisement and includes an advertising consultant;

(3) "air travel agent" means any person engaged in providing any service connected with the booking of passage for travel by air;

52 of 1962.

(4) "Appellate Tribunal" means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under section 129 of the Customs Act, 1962;

(5) "assessee" means a person responsible for collecting the service tax and includes his agent;

54 of 1963.

(6) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963;

(7) "cab" means a motor cab or maxi cab;

(8) "caterer" means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion;

1 of 1944.

(9) "Central Excise Officer" has the meaning assigned to it in clause (b) of section 2 of the Central Excise Act, 1944;

(10) "clearing and forwarding agent" means any person who is engaged in providing any service, either directly or indirectly, connected with clearing and forwarding operations in any manner to any other person and includes a consignment agent;

(11) "consulting engineer" means any professionally qualified engineer or an engineering firm who, either directly or indirectly, renders any advice, consultancy or technical assistance in any manner to a client in one or more disciplines of engineering;

(12) "courier agency" means a commercial concern engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;

52 of 1962.

(13) "custom house agent" means a person licensed, temporarily or otherwise, under the regulations made under sub-section (2) of section 146 of the Customs Act, 1962;

57 of 1972.

(14) "general insurance business" has the meaning assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalisation) Act, 1972;

3 of 1930.

(15) "goods" has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930;

59 of 1988.

(16) "goods carriage" has the meaning assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988;

(17) "goods transport operator" means any commercial concern engaged in the transportation of goods but does not include a courier agency;

(18) "insurer" means any person carrying on the general insurance business in India;

4 of 1882.

(19) "mandap" means any immovable property as defined in section 3 of the Transfer of Property Act, 1882 and includes any furniture, fixtures, light fittings and floor coverings therein let out for consideration for organising any official, social or business function;

(20) "mandap keeper" means a person who allows temporary occupation of a mandap for consideration for organising any official, social or business function;

(21) "manpower recruitment agency" means any commercial concern engaged in providing any service, directly or indirectly, in any manner for recruitment of manpower, to a client;

(22) "maxi cab" has the meaning assigned to it in clause (22) of section 2 of the Motor Vehicles Act, 1988;

59 of 1988.

(23) "motor cab" has the meaning assigned to it in clause (25) of section 2 of the Motor Vehicles Act, 1988;

59 of 1988.

(24) "outdoor caterer" means a caterer engaged in providing services in connection with catering at a place other than his own;

(25) "pager" means an instrument, apparatus or appliance which is a non-speech, one way personal calling system with alert and has the capability of receiving, storing and displaying numeric or alpha-numeric messages;

(26) "pandal or shamiana" means a place specially prepared or arranged for organising an official, social or business function;

(27) "pandal or shamiana contractor" means a person engaged in providing any service, either directly or indirectly, in connection with the preparation, arrangement, erection or decoration of a pandal or shamiana and includes the supply of furniture, fixtures, lights and lighting fittings, floor coverings and other articles for use therein;

(28) "person responsible for collecting the service tax" means a person who is required to collect service tax under this Chapter or is required to pay any other sum of money under this Chapter and includes every person in respect of whom any proceedings under this Chapter have been taken;

(29) "policy-holder" has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938;

4 of 1938.

(30) "prescribed" means prescribed by rules made under this Chapter;

(31) "recognised stock exchange" has the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956;

42 of 1956.

(32) "rent-a-cab scheme operator" means a person who is the holder of a licence under the Rent-a-Cab Scheme, 1989 framed by the Central Government under the Motor Vehicles Act, 1988;

59 of 1988.

(33) "securities" has the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956;

42 of 1956.

(34) "service tax" means tax chargeable under the provisions of this Chapter;

(35) "ship" means a sea-going vessel and includes a sailing vessel;

(36) "shipping line" means any person who owns or charters a ship and includes an enterprise which operates or manages the business of shipping;

(37) "steamer agent" means any person who undertakes, either directly or indirectly,—

(a) to perform any service in connection with the ship's husbandry or dispatch including the rendering of administrative work related thereto; or

(b) to book, advertise or canvass for cargo for or on behalf of a shipping line; or

(c) to provide container feeder services for or on behalf of a shipping line;

(38) "stock-broker" means a stock-broker who has either made an application for registration or is registered as a stock-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;

15 of 1992.

(39) "sub-broker" means a sub-broker who has either made an application for registration or is registered as a sub-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;

15 of 1992.

(40) "subscriber" means a person to whom a telephone connection or pager has been provided by the telegraph authority;

(41) "taxable service" means any service provided,—

(a) to an investor, by a stock-broker in connection with the sale or purchase of securities listed on a recognised stock exchange;

(b) to a subscriber, by the telegraph authority in relation to a telephone connection;

(c) to a subscriber, by the telegraph authority in relation to a pager;

(d) to a policy holder, by an insurer carrying on general insurance business in relation to general insurance business;

(e) to a client, by an advertising agency in relation to advertisements in any manner;

(f) to a customer, by a courier agency in relation to door-to-door transportation of time-sensitive documents, goods or articles;

(g) to a client, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering;

(h) to a client, by a custom house agent in relation to the entry or departure of conveyances or the import or export of goods;

(i) to a shipping line, by a steamer agent in relation to a ship's husbandry or dispatch or any administrative work related thereto as well as the booking, advertising or canvassing of cargo, including container feeder services;

(j) to a client, by a clearing and forwarding agent in relation to clearing and forwarding operations in any manner;

(k) to a client, by a manpower recruitment agency in relation to the recruitment of manpower in any manner;

(l) to a customer, by an air travel agent in relation to the booking of passage for travel by air;

(m) to a customer, by a goods transport operator in relation to carriage of goods by road in a goods carriage;

(n) to a client, by an outdoor caterer;

(o) to a client, by a pandal or shamiana contractor in relation to a pandal or shamiana in any manner and also includes the services, if any, rendered as a caterer;

(p) to a client, by a mandap keeper in relation to the use of a mandap in any manner including the facilities provided to the client in relation to such use and also the services, if any, rendered as a caterer;

(q) to any person, by a tour operator in relation to a tour;

(r) to any person, by a rent-a-cab scheme operator in relation to the renting of a cab;

13 of 1885.

(42) "telegraph authority" has the meaning assigned to it in clause (6) of section 3 of the Indian Telegraph Act, 1885 and includes a person who has been granted a licence under the first proviso to sub-section (1) of section 4 of that Act;

(43) "tour" means a journey from one place to another irrespective of the distance between such places;

59 of 1988.

(44) "tour operator" means a person who holds a tourist permit granted under the rules made under the Motor Vehicles Act, 1988;

1 of 1944.

(45) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 or the rules made thereunder, shall apply, so far as may be, in relation to service tax as they apply in relation to duty of excise;

(2) for section 66, the following section shall be substituted, namely:—

"66. (1) On and from the date of commencement of this Chapter, there shall be charged a tax (hereinafter referred to as the service tax), at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (a), (b) and (d) of clause (41) of section 65 which are provided to any person by the person responsible for collecting the service tax.

Charge of service tax

33 of 1996.

(2) With effect from the date notified under section 85 of the Finance (No. 2) Act, 1996, there shall be charged a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (c), (e) and (f) of clause (41) of section 65 which are provided to any person by the person responsible for collecting the service tax.

(3) With effect from the date notified under section 88 of the Finance Act, 1997, there shall be charged a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q) and (r) of clause (41) of section 65 which are provided to any person by the person responsible for collecting the service tax."

(3) in section 67, after clause (e), the following clauses shall be inserted, namely:—

"(f) in relation to service provided by a consulting engineer to a client, shall be the gross amount charged by such engineer from the client for advice, consultancy or technical assistance in any manner in one or more disciplines of engineering;

(g) in relation to service provided by a custom house agent to a client, shall be the gross amount charged by such agent from the client for services rendered in any manner in relation to the entry or departure of conveyances or in relation to the import or export of goods,

(h) in relation to service provided by a steamer agent to a shipping line, shall be the gross amount charged by such agent from the shipping line for services in relation to a ship's husbandry or dispatch or any administrative work related thereto or in relation to the booking,

advertising or canvassing of cargo, container feeder services, including the commission paid to such agent;

(j) in relation to service provided by a clearing and forwarding agent to a client, shall be the gross amount charged by such agent from the client for services of clearing and forwarding operations in any manner;

(j) in relation to service provided by a manpower recruitment agency to a client, shall be the gross amount charged by such agency from the client in relation to the recruitment of manpower in any manner;

(k) in relation to service provided by an air travel agent to a customer, shall be the gross amount charged by such agent from the customer for services in relation to the booking of passage for travel by air excluding the airfare but including the commission, if any, received from the airline in relation to such booking;

(l) in relation to service provided by goods transport operator to a customer, shall be the gross amount charged by such operator for services in relation to carrying goods by road in a goods carriage and includes the freight charges but does not include any insurance charges;

(m) in relation to service provided by an outdoor caterer to a client, shall be the gross amount charged by such caterer from the client for services in relation to such catering including the charges for food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements provided to such client for any purpose or on any occasion;

(n) in relation to service provided by a pandal or shamiana contractor to a client, shall be the gross amount charged by such contractor from the client for services in relation to the setting up of a pandal or shamiana including the supply of furniture, fixtures, lights and lighting fittings, floor coverings and similar articles used therein and also the charges for catering, if any;

(o) in relation to service provided by a mandap keeper to a client, shall be the gross amount charged by such keeper from the client for the use of mandap including the facilities provided to the client in relation to such use and also the charges for catering, if any;

(p) in relation to service provided by a tour operator to a client, shall be the gross amount charged by such operator from the client for services in relation to a tour and includes the charges for any accommodation, food or any other facilities provided in relation to such tour;

(q) in relation to the service provided by a rent-a-cab scheme operator to any person, shall be the gross amount charged by such operator from such person for services in relation to the renting of a cab and includes such rental;

(4) for section 68, the following section shall be substituted, namely:-

"68. (1) Every person providing taxable service to any person shall collect the service tax at the rate specified in section 66.

(1A) Notwithstanding anything contained in sub-section (1) of section 68, in respect of the taxable service referred to in items (g) to (r) of sub-clause (41) of section 65, the service tax for such service shall be collected from such person and in such manner as may be prescribed at the rate specified in section 66 and all the provisions of this Chapter shall apply to such person as if he is the person responsible for collecting the service tax in relation to such service.

(2) The service tax collected during any calendar month in accordance with the provisions of sub-section (1) or sub-section (1A), as the case may be, shall be paid to the credit of the Central Government by the 15th of the month immediately following the said calendar month.

(3) Any person, responsible for collecting the service tax, who fails to collect the tax in accordance with the provisions of sub-section (1) or sub-section (1A), as the case may be, shall, notwithstanding such failure, be liable to pay such tax to the credit of the Central Government within seventy-five days from the end of the month in which the service was rendered."

(5) in section 76,-

(i) in the opening portion, for the words, brackets and figures "sub-section (1) of section 68", the words, brackets, figures and letter "sub-section (1) or sub-section (1A) of section 68, as the case may be," shall be substituted;

(ii) in clause (b), for the word, brackets and figure "sub-section (2)", the words, brackets and figures "sub-section (2) or who fails to pay the service tax in accordance with sub-section (3)" shall be substituted;

(iii) in clause (ii), for the word, brackets and figure "sub-section (2)", the words, brackets and figures "sub-section (2) or, as the case may be, sub-section (3)" shall be substituted.

Collection
and
recovery of
service tax.

CHAPTER VII

MISCELLANEOUS

Amend-
ment of Act
6 of 1898.

89. In the Indian Post Office Act, 1898, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the First Schedule, the following Schedule shall be substituted, namely:—

"THE FIRST SCHEDULE

(See section 7)

INLAND POSTAGE RATES

Letters

For a weight not exceeding twenty grams Rs. 2.00.

For every twenty grams, or fraction thereof,
exceeding twenty grams Rs. 2.00.

Letter-cards

For a letter-card Re.1.00.

Post cards (not being post cards containing printed communication or competition post cards)

Single 25 paise

Reply 50 paise.

[Post cards containing printed communication (not being competition post cards)]

For a post card Rs. 1.50.

Explanation.—A post card shall be deemed to contain a printed communication, if any matter (except the name and address of, and other particulars relating to, the sender and the place and date of despatch) is recorded by printing or by cyclostyling or by any other mechanical process, not being typewriting, on any part of the post card except the right hand half of the address-side thereof.

Competition post cards

For a post card Rs. 2.00.

Explanation.—A post card shall be deemed to be a competition post card if it is used in response to any competition organised on or through television, radio, newspaper, magazine or any other media.

Book, pattern and sample packets

For the first fifty grams or fraction thereof Re. 1.00

For every additional fifty grams, or
fraction thereof, in excess of fifty grams, Rs. 2.00.

Registered newspapers

For a weight not exceeding fifty grams 15 paise

For a weight exceeding fifty grams but not
exceeding one hundred grams 25 paise

For every additional one hundred grams, or
fraction thereof, exceeding one hundred grams 10 paise.

In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—

For a weight not exceeding one hundred grams 25 paise

For every additional one hundred grams, or
fraction thereof, exceeding one hundred grams 10 paise:

Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the Post Office.

Parcels

For a weight not exceeding five hundred grams Rs. 8.00

For every five hundred grams, or fraction
thereof, exceeding five hundred grams Rs. 8.00."

90. In the Unit Trust of India Act, 1963, in section 32, sub-section (3) shall be omitted with effect from the 1st day of June, 1997.

Amendment
of Act 52 of
1963

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 40,000 | Nil; |
| (2) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000 | 15 per cent. of the amount by which the total income exceeds Rs. 40,000; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,20,000 | Rs. 3,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,20,000 | Rs. 21,000 plus 40 per cent. of the amount by which the total income exceeds Rs. 1,20,000. |

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 plus 35 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income	40 per cent.
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Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income	30 per cent.
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Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company

40 per cent. of the total income;

II. In the case of a company other than a domestic company,—

(i) on so much of the total income as consists of—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income

55 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of this Paragraph or sections 112 and 113 of the Income-tax Act, shall, in the case of every domestic company having a total income exceeding seventy-five thousand rupees, be increased by a surcharge calculated at the rate of seven-and-a-half per cent. of such income-tax.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

Rate of income-tax

1. In the case of a person other than a company—

(a) where the person is resident in India—

(i) on income by way of interest other than "Interest on securities"

10 per cent.;

(ii) on income by way of winnings from lotteries and crossword puzzles

40 per cent.;

(iii) on income by way of winnings from horse races

40 per cent.;

(iv) on income by way of insurance commission

10 per cent.;

(v) on income by way of interest payable on—

10 per cent.;

(A) any debentures or securities other than a security of the Central or a State Government for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act

(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and any rules made thereunder

(vi) on any other income

20 per cent.;

(b) where the person is not resident in India—

(i) in the case of a non-resident Indian—

(A) on any investment income

20 per cent.;

(B) on income by way of long-term capital gains referred to in section 115E

10 per cent.;

(C) on other income by way of long-term capital gains

20 per cent.;

(D) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency

20 per cent.;

Rate of income-tax

(E) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(F) on income by way of winnings from horse races	40 per cent.;
(G) on the whole of other income	income-tax at 30 per cent. of the amount of income or income-tax in respect of the income at the rates prescribed in Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher;

(ii) in the case of any other person—

(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(B) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(C) on income by way of winnings from horse races	40 per cent.;
(D) on income by way of long-term capital gains	20 per cent.;
(E) on the whole of the other income	income-tax at 30 per cent. of the amount of income or income-tax in respect of the income at the rates prescribed in Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher.

2. In the case of a company—

(a) where the company is a domestic company—

(i) on income by way of interest other than "Interest on securities"	20 per cent.;
(ii) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on any other income	20 per cent.;

(b) where the company is not a domestic company—

(i) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(ii) on income by way of winnings from horse races	40 per cent.;
(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—	
(A) where the agreement is made before the 1st day of June, 1997	30 per cent.;
(B) where the agreement is made on or after the 1st day of June, 1997	20 per cent.;
(v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an	

Rate of income-tax

agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

- | | |
|---|---------------|
| (A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976 | 50 per cent.; |
| (B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997 | 30 per cent.; |
| (C) where the agreement is made on or after the 1st day of June, 1997 | 20 per cent.; |
- (vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—
- | | |
|--|---------------|
| (A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976 | 50 per cent.; |
| (B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997 | 30 per cent.; |
| (C) where the agreement is made on or after the 1st day of June, 1997 | 20 per cent.; |
- (vii) on income by way of long-term capital gains 20 per cent.;
- (viii) on any other income 48 per cent.

Explanation.—For the purpose of item 1(b)(i) of this Part, "investment income" and "non-resident Indian" shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

PART III

RATES FOR CALCULATING OR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section], shall be calculated, charged, deducted or computed at the following rate or rates:—

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 40,000 | Nil; |
| (2) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000 | 10 per cent. of the amount by which the total income exceeds Rs. 40,000; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000 | Rs. 2,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,50,000 | Rs. 20,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000. |

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 plus 35 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income

35 per cent.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income

30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company

35 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income

48 per cent.

PART IV

[See Section 2(10)(C)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total

income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee; if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1997, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1989, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1997.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995, or the 1st day of April, 1996 or the 1st day of April, 1997, is a loss, then, for the purposes of sub-section (9) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1998.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1989 (13 of 1989), or of the First Schedule to the Finance Act, 1990 (12 of 1990), or of the First Schedule to the Finance (No. 2) Act, 1991 (49 of 1991), or of the First Schedule to the Finance Act, 1992 (18 of 1992), or of the First Schedule to the Finance Act, 1993 (38 of 1993), or of the First Schedule to the Finance Act, 1994 (32 of 1994), or of the First Schedule to the Finance Act, 1995 (22 of 1995), or of the First Schedule to the Finance (No. 2) Act, 1996 (33 of 1996), shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be nil.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

(See section 80.)

In the First Schedule to the Customs Tariff Act.—

(1) in Chapter 1, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

(2) in Chapter 8,—

(i) in sub-heading Nos. 0801.11, 0801.19, 0801.21, 0801.22 and 0801.32, for the entries in column (4) and column (5) occurring against each of them, the entries "40%" and "30%" shall respectively be substituted;

(ii) in sub-heading No. 0802.11, for the entries in column (4) and column (5), the entries "Rs. 55 per Kg." and "Rs. 50 per Kg." shall respectively be substituted;

(iii) in sub-heading No. 0802.12, for the entries in column (4) and column (5), the entries "Rs. 100 per Kg." and "Rs. 95 per Kg." shall respectively be substituted;

(iv) in sub-heading Nos. 0802.21, 0802.22, 0802.31, 0802.32, 0802.40, 0802.50, 0802.90, 0803.00, 0804.20, 0804.30, 0804.40, 0804.50, 0805.10, 0805.20, 0805.30, 0805.40 and 0805.90, for the entries in column (4) and column (5) occurring against each of them, the entries "40%" and "30%" shall respectively be substituted;

(v) in sub-heading No. 0806.20, for the entries in column (4) and column (5), the entries "125%" and "115%" shall respectively be substituted;

(vi) in sub-heading Nos. 0807.11, 0807.19, 0807.20, 0808.10, 0808.20, 0809.10, 0809.20, 0809.30, 0810.10, 0810.20, 0810.30, 0810.40, 0810.50, 0811.10, 0811.20, 0811.90, 0812.10, 0812.20, 0812.90, 0813.10, 0813.20, 0813.30, 0813.40, 0813.50 and 0814.00, for the entries in column (4) and column (5) occurring against each of them, the entries "40%" and "30%" shall respectively be substituted;

(3) in Chapter 12,—

(i) in sub-heading Nos. 1201.00, 1202.10, 1202.20, 1203.00, 1204.00, 1205.00, 1206.00, 1207.10, 1207.20, 1207.30, 1207.40, 1207.50, 1207.60, 1207.91, 1207.92 and 1207.99, for the entries in column (4) and column (5) occurring against each of them, the entries "40%" and "30%" shall respectively be substituted;

(ii) in sub-heading Nos. 1208.10 and 1208.90, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(iii) in sub-heading Nos. 1209.11, 1209.19, 1209.21, 1209.22, 1209.23, 1209.24, 1209.25, 1209.26, 1209.29 and 1209.30, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(iv) in sub-heading Nos. 1210.10, 1210.20, 1211.10, 1211.20, 1212.10, 1212.20, 1212.30, 1212.91, 1212.92, 1212.99, 1213.00, 1214.10 and 1214.90, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(4) in Chapter 13,—

(i) in sub-heading No. 1301.10, for the entry in column (4), the entry "40%" shall be substituted;

(ii) in sub-heading No. 1301.20, for the entries in column (4) and column (5), the entries "40%" and "30%" shall respectively be substituted;

(iii) in sub-heading Nos. 1301.90, 1302.11, 1302.12, 1302.13, 1302.14, 1302.31, 1302.32 and 1302.39, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(5) in Chapter 15,—

(i) in sub-heading Nos. 1501.00, 1503.00, 1504.10, 1504.20 and 1504.30, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(ii) in sub-heading Nos. 1505.10 and 1505.90, for the entry in column (4) occurring against each of them the entry "20%" shall be substituted;

(iii) in sub-heading No. 1506.00, for the entry in column (4), the entry "30%" shall be substituted;

(iv) in sub-heading Nos. 1508.10, 1508.30, 1511.10, 1511.90, 1512.11, 1512.19, 1512.21, 1512.29, 1513.21, 1513.29, 1515.11, 1515.19, 1515.21, 1515.29, 1515.30, 1515.40, 1515.50, 1515.60 and 1515.90, for the entries in column (4) and column (5) occurring against each of them, the entries "30%" and "20%" shall respectively be substituted;

(v) in sub-heading Nos. 1516.10, 1516.20, 1517.10, 1517.90, 1518.00, 1520.00, 1521.10, 1521.90 and 1522.00, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(6) in Chapter 16, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

(7) in Chapter 17, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 1702.11, 1702.19, 1703.10 and 1703.90), the entry "40%" shall be substituted;

(8) in Chapter 18, in sub-heading No. 1801.00, for the entry in column (4), the entry "30%" shall be substituted;

(9) in Chapter 19, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 1901.10), the entry "40%" shall be substituted;

(10) in Chapter 20, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

(11) in Chapter 21,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 2106.90), the entry "40%" shall be substituted;

(ii) in sub-heading No. 2106.90, for the entry in column (4), the entry "190%" shall be substituted;

(12) in Chapter 22,—

(i) in sub-heading Nos. 2201.10, 2201.90, 2202.10 and 2202.90, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(ii) in sub-heading Nos. 2203.00, 2204.10, 2204.21, 2204.29, 2204.30, 2205.10, 2205.90 and 2206.00, for the entry in column (4) occurring against each of them, the entry "100%" shall be substituted;

(iii) in sub-heading Nos. 2207.10, 2208.20, 2208.30, 2208.40, 2208.50, 2208.60, 2208.70 and 2208.90, for the entry in column (4) occurring against each of them, the entry "260%" shall be substituted;

(iv) in sub-heading No. 2209.00, for the entry in column (4), the entry "40%" shall be substituted;

(13) in Chapter 23,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 2301.20), the entry "40%" shall be substituted;

(ii) in sub-heading No. 2301.20, for the entry in column (4), the entry "Free" shall be substituted;

(14) in Chapter 24, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

(15) in Chapter 25,—

(i) in sub-heading Nos. 2501.00 and 2503.00, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(ii) in sub-heading Nos. 2504.10 and 2504.90, for the entries in column (4) and column (5) occurring against each of them, the entries "30%" and "20%" shall respectively be substituted;

(iii) in sub-heading Nos. 2517.10, 2517.20, 2517.30, 2517.41 and 2517.49, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(iv) in sub-heading Nos. 2519.10 and 2519.90, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(v) in sub-heading Nos. 2521.00, 2522.10, 2522.20, 2522.30 and 2524.00, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(16) in Chapter 26, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2601.11, 2601.12, 2601.20, 2620.11, 2620.19 and 2620.30), the entry "5%" shall be substituted;

(17) in Chapter 27,—

(i) in sub-heading Nos. 2701.11, 2701.12, 2701.19, 2701.20, 2702.10, 2702.20, 2703.00 and 2704.00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(ii) in sub-heading No. 2707.40, for the entry in column (4), the entry "20%" shall be substituted;

(iii) in sub-heading No. 2707.60, for the entry in column (4), the entry "25%" shall be substituted;

(18) in Chapter 28,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2801.20, 2814.10, 2814.20, 2815.11, 2815.12, 2823.00 and 2845.10), the entry "30%" shall be substituted;

(ii) for the entry in column (4) occurring against sub-heading Nos. 2814.10 and 2814.20, the entry "Free" shall be substituted;

(19) in Chapter 29,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2901.10, 2901.21, 2901.22, 2901.23, 2901.24, 2901.29, 2902.11, 2902.19, 2902.20, 2902.30, 2902.41, 2902.42, 2902.43, 2902.44, 2902.50, 2902.60, 2902.70, 2902.90, 2903.15, 2903.21, 2905.11, 2905.31, 2907.11, 2915.21, 2917.12, 2917.36, 2917.37, 2918.12, 2926.10, 2933.21, 2933.71, 2936.10, 2936.21, 2936.22, 2936.23, 2936.24, 2936.25, 2936.26, 2936.27, 2936.28, 2936.29, 2936.90, 2937.10, 2937.21, 2937.22, 2937.29, 2937.91, 2937.92, 2937.99, 2939.41, 2939.42, 2939.49, 2939.50, 2941.10, 2941.20, 2941.30, 2941.40, 2941.50 and 2941.90), the entry "30%" shall be substituted;

(ii) in sub-heading No. 2905.11, for the entry in column (4), the entry "20%" shall be substituted;

(iii) in sub-heading No. 2907.11, for the entry in column (4), the entry "25%" shall be substituted;

(iv) in sub-heading Nos. 2936.10, 2936.21, 2936.22, 2936.23, 2936.24, 2936.25, 2936.26, 2936.27, 2936.28, 2936.29 and 2936.90, for the entries in column (4) and column (5) occurring against each of them, the entries "30%" and "24%" shall respectively be substituted;

(v) in sub-heading Nos. 2937.10, 2937.21, 2937.22, 2937.29, 2937.91, 2937.92, 2937.99, 2939.41, 2939.42, 2939.49 and 2939.50, for the entries in column (4) and column (5) occurring against each of them, the entries "30%" and "20%" shall respectively be substituted;

(vi) in sub-heading Nos. 2941.10, 2941.20, 2941.30, 2941.40, 2941.50 and 2941.90, for the entries in column (4) and column (5) occurring against each of them, the entries "30%" and "24%" shall respectively be substituted;

(20) in Chapter 30,—

(i) for the entries in column (4) and column (5) occurring against all the sub-heading Nos. (except sub-heading Nos. 3005.10, 3005.90, 3006.10, 3006.20, 3006.30, 3006.40, 3006.50 and 3006.60), the entries "30%" and "20%" shall respectively be substituted;

(ii) in sub-heading Nos. 3005.10, 3005.90, 3006.10, 3006.20, 3006.30, 3006.40 and 3006.50, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(21) in Chapter 31, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3102.21, 3102.50, 3104.30, 3105.20, 3105.30, 3105.40, 3105.51, 3105.59, 3105.60 and 3105.90), the entry "30%" shall be substituted;

(22) in Chapter 32, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3201.10, 3201.20, 3201.90, 3206.11 and 3206.19), the entry "30%" shall be substituted;

(23) in Chapter 33,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 3302.10), the entry "40%" shall be substituted;

(ii) in sub-heading No. 3302.10, for the entry in column (4), the entry "190%" shall be substituted;

(24) in Chapter 34,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3402.11, 3402.12, 3402.13 and 3402.19), the entry "40%" shall be substituted;

(ii) in sub-heading Nos. 3402.11, 3402.12, 3402.13 and 3402.19, for the entries in column (4) and column (5) occurring against each of them, the entries "40%" and "30%" shall respectively be substituted;

(25) in Chapter 35, for the entry in column (4) occurring against all the sub-heading Nos., the entry "30%" shall be substituted;

(26) in Chapter 36, for the entry in column (4) occurring against all the sub-heading Nos., the entry "30%" shall be substituted;

(27) in Chapter 37, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3701.20 and 3702.20), the entry "25%" shall be substituted;

(28) in Chapter 38,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3801.10, 3802.10, 3812.10, 3815.11, 3815.12, 3815.19, 3815.90 and 3817.10), the entry "30%" shall be substituted;

(ii) in sub-heading No. 3817.10, for the entry in column (4), the entry "20%" shall be substituted;

(iii) in sub-heading Nos. 3801.10, 3802.10 and 3812.10, for the entries in column (4) and column (5) occurring against each of them, the entries "30%" and "20%" shall respectively be substituted;

(iv) in sub-heading Nos. 3815.11 and 3815.12, for the entries in column (4) and column (5) occurring against each of them, the entries "25%" and "15%" shall respectively be substituted;

(v) in sub-heading Nos. 3815.19 and 3815.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(29) in Chapter 39, in sub-heading Nos. 3916.10, 3916.20, 3916.90, 3917.10, 3917.21, 3917.22, 3917.23, 3917.29, 3917.31, 3917.32, 3917.33, 3917.39, 3917.40, 3918.10, 3918.90, 3919.10, 3919.90, 3920.10, 3920.20, 3920.30, 3920.41, 3920.42, 3920.51, 3920.59, 3920.61, 3920.62, 3920.63, 3920.69, 3920.71, 3920.72, 3920.73, 3920.79, 3920.91, 3920.92, 3920.93, 3920.94, 3920.99, 3921.11, 3921.12, 3921.13, 3921.14, 3921.19, 3921.90, 3922.10, 3922.20, 3922.90, 3923.10, 3923.21, 3923.29, 3923.30, 3923.40, 3923.50, 3923.90, 3924.10, 3924.90, 3925.10, 3925.20, 3925.30, 3925.90, 3926.10, 3926.20, 3926.30, 3926.40 and 3926.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(30) in Chapter 40, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 4001.10, 4001.21, 4001.22, 4001.29 and 4011.30), the entry "40%" shall be substituted;

(31) in Chapter 42, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

(32) in Chapter 43,—

(i) in sub-heading Nos. 4301.30 and 4302.13, for the entry in column (4) occurring against each of them, the entry "Free" shall be substituted;

(ii) in sub-heading Nos. 4303.10, 4303.90 and 4304.00, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(33) in Chapter 44, in sub-heading Nos. 4401.10, 4401.21, 4401.22, 4401.30, 4402.00, 4403.10, 4403.20, 4403.41, 4403.49, 4403.91, 4403.92 and 4403.99, for the entry in column (4) occurring against each of them, the entry "Free" shall be substituted;

(34) in Chapter 46, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

(35) in Chapter 48,—

(i) in sub-heading Nos. 4812.00, 4813.10, 4813.20, 4813.90, 4814.10, 4814.20, 4814.30, 4814.90, 4815.00, 4816.10, 4816.20, 4816.30, 4816.90, 4817.10, 4817.20, 4817.30, 4818.10, 4818.20, 4818.30, 4818.40, 4818.50, 4818.90, 4819.10, 4819.20, 4819.30, 4819.40, 4819.50, 4819.60, 4820.10, 4820.20, 4820.30, 4820.40, 4820.50, 4820.90, 4821.10, 4821.90, 4822.10, 4822.90, 4823.11, 4823.19, 4823.40, 4823.51, 4823.59, 4823.60, 4823.70 and 4823.90, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(ii) in sub-heading No. 4823.20, for the entry in column (4), the entry "20%" shall be substituted;

(36) in Chapter 49, in sub-heading Nos. 4905.10, 4905.91, 4905.99 and 4906.00, for the entry in column (4) occurring against each of them, the entry "Free" shall be substituted;

(37) in Chapter 50, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 5002.00), the entry "30%" shall be substituted;

(38) in Chapter 51,—

(i) in sub-heading Nos. 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5102.10, 5102.20, 5103.10, 5103.20, 5103.30 and 5104.00, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(ii) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5102.10, 5102.20, 5103.10, 5103.20, 5103.30, 5104.00 and 5105.30), the entry "40%" shall be substituted;

(39) in Chapter 52,—

(i) in sub-heading No. 5201.00, for the entry in column (4), the entry "Free" shall be substituted;

(ii) in sub-heading Nos. 5202.10, 5202.91, 5202.99, 5204.11, 5205.11, 5205.12, 5205.13, 5205.14, 5205.15, 5205.21, 5205.22, 5205.23, 5205.24, 5205.26, 5205.27, 5205.28, 5205.31, 5205.32, 5205.33, 5205.34, 5205.35, 5205.41, 5205.42, 5205.43, 5205.44, 5205.46, 5205.47, 5205.48 and 5207.10, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(iii) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 5201.00, 5202.10, 5202.91, 5202.99, 5204.11, 5205.11, 5205.12, 5205.13, 5205.14, 5205.15, 5205.21, 5205.22, 5205.23, 5205.24, 5205.26, 5205.27, 5205.28, 5205.31, 5205.32, 5205.33, 5205.34, 5205.35, 5205.41, 5205.42, 5205.43, 5205.44, 5205.46, 5205.47, 5205.48 and 5207.10), the entry "40%" shall be substituted;

(40) in Chapter 53, in sub-heading Nos. 5306.10, 5306.20, 5307.10, 5307.20, 5308.10, 5308.20, 5308.30, 5308.90, 5309.11, 5309.19, 5309.21, 5309.29, 5310.10, 5310.90 and 5311.00, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(41) in Chapter 54, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 5402.10, 5402.20, 5402.31, 5402.32, 5402.33, 5402.39, 5402.41, 5402.42, 5402.43, 5402.49, 5402.51, 5402.52, 5402.59, 5402.61, 5402.62, 5402.69, 5403.10, 5403.20, 5403.31, 5403.32, 5403.33, 5403.39, 5403.41, 5403.42 and 5403.49), the entry "40%" shall be substituted;

(42) in Chapter 55,—

(i) in sub-heading Nos. 5505.10 and 5505.20, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(ii) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 5501.10, 5501.20, 5501.30, 5501.90, 5502.00, 5503.10, 5503.20, 5503.30, 5503.40, 5503.90, 5504.10, 5504.90, 5505.10, 5505.20, 5506.10, 5506.20, 5506.30, 5506.90 and 5507.00), the entry "40%" shall be substituted;

(43) in Chapter 56, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

(44) in Chapter 57, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

(45) in Chapter 58,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 5802.11 and 5802.19), the entry "40%" shall be substituted;

(ii) in sub-heading Nos. 5802.11 and 5802.19, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(46) in Chapter 59, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

(47) in Chapter 60, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

48) in Chapter 61, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

49) in Chapter 62, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

50) in Chapter 63,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 6310.10 and 6310.90), the entry "40%" shall be substituted;

(ii) in sub-heading Nos. 6310.10 and 6310.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

51) in Chapter 64, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

52) in Chapter 65, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

53) in Chapter 66, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

54) in Chapter 67, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

55) in Chapter 68, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 6806.10, 6806.20 and 6806.90), the entry "40%" shall be substituted;

56) in Chapter 69, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 6902.10, 6902.20 and 6902.90), the entry "40%" shall be substituted;

57) in Chapter 70, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

58) in Chapter 71, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

59) in Chapter 72, in sub-heading Nos. 7202.11, 7202.19, 7202.21, 7202.29, 7202.30, 7202.41, 7202.49, 7202.50, 7202.60, 7202.70, 7202.80, 7202.91, 7202.92, 7202.93 and 7202.99, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

60) in Chapter 75, for the entry in column (4) occurring against all the sub-heading Nos., the entry "10%" shall be substituted;

61) in Chapter 76, in sub-heading Nos. 7601.10, 7601.20 and 7602.00, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

62) in Chapter 80, for the entry in column (4) occurring against all the sub-heading Nos., the entry "20%" shall be substituted;

63) in Chapter 82,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8212.10, 8212.20, 8212.90, 8213.00, 8214.10, 8214.20, 8214.90, 8215.10, 8215.20, 8215.91 and 8215.99), the entry "25%" shall be substituted;

(ii) for the entry in column (4) occurring against sub-heading Nos. 8212.10, 8212.20, 8212.90, 8213.00, 8214.10, 8214.20, 8214.90, 8215.10, 8215.20, 8215.91 and 8215.99, the entry "40%" shall be substituted;

64) in Chapter 83, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;

65) in Chapter 84,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8407.21, 8414.30, 8414.80, 8414.90, 8415.10, 8415.20, 8415.81, 8415.82, 8415.83, 8415.90, 8418.10, 8418.21, 8418.22, 8418.29, 8418.91, 8418.99, 8422.11, 8422.19, 8422.90, 8423.10, 8447.20, 8448.11, 8448.19, 8448.51, 8448.59, 8450.11, 8450.12, 8450.19, 8450.20, 8450.90, 8451.10, 8451.90, 8452.10, 8452.30, 8452.40, 8452.90, 8469.11, 8469.12, 8469.20, 8469.30, 8470.10, 8470.21, 8470.29, 8470.30, 8470.40, 8470.50, 8470.90, 8472.10, 8472.20, 8472.30, 8472.90, 8473.10, 8473.21, 8473.29, 8473.40, 8473.50, 8479.50, 8479.60, 8479.89, 8482.10, 8482.20, 8482.30, 8482.40, 8482.50, 8482.80, 8482.91, 8482.99, 8485.10 and 8485.90), the entry "20%" shall be substituted;

(ii) in sub-heading No. 8407.21, for the entry in column (4), the entry "5%" shall be substituted;

(iii) in sub-heading Nos. 8414.30, 8414.80 and 8414.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(iv) in sub-heading Nos. 8415.10, 8415.20, 8415.81, 8415.82, 8415.83, 8415.90, 8418.10, 8418.21, 8418.22, 8418.29, 8418.91, 8418.99, 8422.11, 8422.19, 8422.90, 8423.10, 8447.20, 8448.11, 8448.19, 8448.51, 8448.59, 8450.11, 8450.12 and 8450.19, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(v) in sub-heading No. 8450.20, for the entry in column (4), the entry "30%" shall be substituted;

(vi) in sub-heading No. 8450.90, for the entry in column (4), the entry "40%" shall be substituted;

(vii) in sub-heading Nos. 8451.10 and 8451.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(viii) in sub-heading Nos. 8452.10, 8452.30, 8452.40, 8452.90, 8469.11, 8469.12, 8469.20, 8469.30, 8470.10, 8470.21, 8470.29, 8470.30, 8470.40, 8470.50, 8470.90, 8472.10, 8472.20, 8472.30, 8472.90, 8473.10, 8473.21, 8473.29, 8473.40 and 8473.50, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(ix) in sub-heading Nos. 8479.50, 8479.60 and 8479.89, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(x) in sub-heading Nos. 8482.10, 8482.20, 8482.30, 8482.40, 8482.50, 8482.60, 8482.91 and 8482.99, for the entry in column (4) occurring against each of them, the entry "10% plus Rs. 150 per Kg." shall be substituted;

(xi) in sub-heading Nos. 8485.10 and 8485.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(86) in Chapter 85,—

(i) in sub-heading No. 8501.10, for the entry in column (4), the entry "40%" shall be substituted;

(ii) in sub-heading Nos. 8501.20, 8501.31, 8501.32, 8501.33, 8501.34, 8501.40, 8501.51, 8501.52, 8501.53, 8501.61, 8501.62, 8501.63, 8501.64, 8502.11, 8502.12, 8502.13, 8502.20, 8502.31, 8502.39, 8502.40, 8503.00, 8504.10, 8504.21, 8504.22, 8504.23, 8504.31, 8504.32, 8504.33, 8504.34, 8504.40, 8504.50, 8504.90, 8505.11, 8505.19, 8505.20, 8505.30 and 8505.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(iii) in sub-heading Nos. 8506.10, 8506.30, 8506.40, 8506.50, 8506.60, 8506.80, 8506.90, 8507.10, 8507.20, 8507.30, 8507.40, 8507.80 and 8507.90, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(iv) in sub-heading Nos. 8508.10, 8508.20, 8508.80 and 8508.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(v) in sub-heading Nos. 8509.10, 8509.20, 8509.30, 8509.40, 8509.80, 8509.90, 8510.10, 8510.20, 8510.30, 8510.90, 8511.10, 8511.20, 8511.30, 8511.40, 8511.50, 8511.80, 8511.90, 8512.10, 8512.20, 8512.30, 8512.40, 8512.90, 8513.10 and 8513.90, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(vi) in sub-heading Nos. 8514.10, 8514.20, 8514.30, 8514.40, 8514.90, 8515.11, 8515.19, 8515.21, 8515.29, 8515.31, 8515.39, 8515.80 and 8515.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(vii) in sub-heading Nos. 8516.10, 8516.21, 8516.29, 8516.31, 8516.32, 8516.33, 8516.40, 8516.50, 8516.60, 8516.71, 8516.72, 8516.79, 8516.80 and 8516.90, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(viii) in sub-heading Nos. 8517.11, 8517.19, 8517.21, 8517.22, 8517.30, 8517.50 and 8517.80, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(ix) in sub-heading Nos. 8517.90 and 8518.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(x) in sub-heading Nos. 8518.10, 8518.21, 8518.22, 8518.29, 8518.30, 8518.40, 8518.50, 8519.10, 8519.21, 8519.29, 8519.31, 8519.39, 8519.40, 8519.92, 8519.93, 8519.99, 8520.10, 8520.20, 8520.32, 8520.33, 8520.39, 8520.90, 8521.10, 8521.90, 8522.90, 8523.11, 8523.12, 8523.13, 8523.20, 8523.30, 8523.90, 8524.10, 8524.31, 8524.32, 8524.39, 8524.40, 8524.51, 8524.52, 8524.53, 8524.60, 8524.91 and 8524.99, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(xi) in sub-heading Nos. 8525.10 and 8525.20, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(xii) in sub-heading Nos. 8525.30, 8525.40, 8526.10, 8526.91, 8526.92, 8527.12, 8527.13, 8527.19, 8527.21, 8527.29, 8527.31, 8527.32 and 8527.39, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(xiii) in sub-heading No. 8527.90, for the entry in column (4), the entry "30%" shall be substituted;

(xiv) in sub-heading Nos. 8528.12, 8528.13, 8528.21, 8528.22 and 8528.30, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(xv) in sub-heading Nos. 8529.10, 8529.90, 8530.10, 8530.80 and 8530.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(xvi) in sub-heading Nos. 8531.10, 8531.20, 8531.80, 8531.90, 8532.10, 8532.21, 8532.22, 8532.23, 8532.24, 8532.25, 8532.29, 8532.30 and 8532.90, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(xvii) in sub-heading Nos. 8535.10, 8535.21, 8535.29, 8535.30, 8535.40, 8535.90, 8536.10, 8536.20, 8536.30, 8536.41, 8536.49, 8536.50, 8536.61, 8536.69, 8536.90, 8537.10, 8537.20, 8538.10 and 8538.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(xviii) in sub-heading Nos. 8539.10, 8539.21, 8539.22, 8539.29, 8539.31, 8539.32, 8539.39, 8539.41, 8539.49 and 8539.90, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(xix) in sub-heading No. 8540.11, for the entry in column (4), the entry "30%" shall be substituted;

(xx) in sub-heading Nos. 8540.40, 8542.12, 8542.13, 8542.14, 8542.19, 8542.30, 8542.40, 8542.50 and 8542.90, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(xxi) in sub-heading Nos. 8543.11, 8543.19, 8543.20 and 8543.30, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

- (xxii) in sub-heading Nos. 8543.40, 8543.81 and 8543.89, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;
- (xxiii) in sub-heading No. 8543.90, for the entry in column (4), the entry "20%" shall be substituted;
- (xxiv) in sub-heading Nos. 8544.11, 8544.19, 8544.20, 8544.30, 8544.41, 8544.49, 8544.51, 8544.59, 8544.60 and 8544.70, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;
- (xxv) in sub-heading Nos. 8545.11, 8545.19, 8545.20, 8545.90, 8546.10, 8546.20, 8546.90, 8547.10, 8547.20 and 8547.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;
- (xxvi) in sub-heading No. 8548.90, for the entry in column (4), the entry "30%" shall be substituted;
- (67) in Chapter 86, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8607.11, 8607.12, 8607.19, 8607.21, 8607.29, 8607.30, 8607.91, 8607.99 and 8608.00), the entry "40%" shall be substituted;
- (68) in Chapter 87, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 8710.00), the entry "40%" shall be substituted;
- (69) in Chapter 88, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8802.20, 8802.30, 8802.40, 8803.10, 8803.20 and 8803.30), the entry "40%" shall be substituted;
- (70) in Chapter 89, —
- (i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 8908.00), the entry "40%" shall be substituted;
- (ii) in sub-heading No. 8908.00, for the entry in column (4), the entry "5%" shall be substituted;
- (71) in Chapter 90, —
- (i) in sub-heading Nos. 9001.10, 9001.20, 9001.30, 9001.40, 9001.50, 9001.90, 9002.11, 9002.19, 9002.20, 9002.90, 9003.11, 9003.19, 9003.90, 9004.10, 9004.90, 9005.10, 9005.80, 9005.90, 9006.10, 9006.20, 9006.30, 9006.40, 9006.51, 9006.52, 9006.53, 9006.59, 9006.61, 9006.62, 9006.69, 9007.11, 9007.19, 9007.20, 9008.10, 9008.20, 9008.30, 9008.40, 9009.11, 9009.12, 9009.21, 9009.22, 9009.30, 9010.10, 9010.41, 9010.42, 9010.49, 9010.50, 9010.60, 9022.19, 9022.29, 9022.30 and 9022.90, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;
- (ii) in sub-heading Nos. 9006.91, 9006.99, 9007.91, 9007.92, 9008.90, 9009.90 and 9010.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
- (iii) in sub-heading Nos. 9011.10, 9011.20, 9011.80, 9011.90, 9012.10, 9012.90, 9013.10, 9013.20, 9013.80, 9013.90, 9014.10, 9014.20, 9014.80, 9014.90, 9015.10, 9015.20, 9015.30, 9015.40, 9015.80, 9015.90, 9016.00, 9017.10, 9017.20, 9017.30, 9017.80, 9017.90, 9018.11, 9018.12, 9018.13, 9018.14, 9018.19, 9018.20, 9018.31, 9018.32, 9018.39, 9018.41, 9018.49, 9018.50, 9018.90, 9019.10, 9019.20, 9020.00, 9021.11, 9021.19, 9021.21, 9021.29, 9021.30, 9021.40, 9021.50, 9021.90, 9022.12, 9022.13, 9022.14, 9022.21, 9023.00, 9024.10, 9024.80, 9024.90, 9025.11, 9025.19, 9025.80, 9025.90, 9026.10, 9026.20, 9026.80, 9026.90, 9027.10, 9027.20, 9027.30, 9027.40, 9027.50, 9027.80, 9027.90, 9028.10, 9028.20, 9028.30, 9028.90, 9029.10, 9029.20, 9029.90, 9030.10, 9030.20, 9030.31, 9030.39, 9030.40, 9030.82, 9030.83, 9030.89, 9030.90, 9031.10, 9031.20, 9031.30, 9031.41, 9031.49, 9031.80, 9031.90, 9032.10, 9032.20, 9032.81, 9032.89, 9032.90 and 9033.00, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;
- (72) in Chapter 91, —
- (i) in sub-heading Nos. 9101.11, 9101.12, 9101.19, 9101.21, 9101.29, 9101.91, 9101.99, 9102.11, 9102.12, 9102.19, 9102.21, 9102.29, 9102.91, 9102.99, 9103.10, 9103.90, 9104.00, 9105.11, 9105.19, 9105.21, 9105.29, 9105.91, 9105.99, 9106.10, 9106.20, 9106.90, 9107.00, 9111.10, 9111.90 and 9113.10, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;
- (ii) in sub-heading Nos. 9108.11, 9108.12, 9108.19, 9108.20, 9108.91, 9108.99, 9109.11, 9109.19, 9109.90, 9110.11, 9110.12, 9110.19, 9110.90, 9114.10, 9114.20, 9114.30, 9114.40 and 9114.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;
- (iii) in sub-heading Nos. 9111.20, 9111.80, 9112.10, 9112.80, 9112.90, 9113.20 and 9113.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;
- (73) in Chapter 93, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;
- (74) in Chapter 94, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;
- (75) in Chapter 95, for the entry in column (4) occurring against all the sub-heading Nos., the entry "25%" shall be substituted;
- (76) in Chapter 96, for the entry in column (4) occurring against all the sub-heading Nos., the entry "40%" shall be substituted;
- (77) in Chapter 97, in sub-heading Nos. 9701.10, 9701.90, 9702.00, 9703.00 and 9706.00, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;
- (78) in Chapter 98, —
- (i) in sub-heading No. 9801.00, for the entry in column (4), the entry "20%" shall be substituted;
- (ii) in sub-heading Nos. 9802.00 and 9804.10, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;
- (iii) in sub-heading Nos. 9804.90, 9805.10 and 9805.90, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted.

THE THIRD SCHEDULE

(See section 85)

PART I

In the Schedule to the Central Excise Tariff Act,—

- (1) in Chapter 4, in sub-heading No. 0401.14, for the entry in column (4), the entry "13%" shall be substituted;
- (2) in Chapter 7, in NOTE 2, for clauses (b) and (c), the following clauses shall be substituted, namely:—
 - "(b) flour, meal, powder, flakes, granules and pellets of potatoes (Chapter 11);
 - (c) flour, meal and powder of the dried leguminous vegetables of Chapter 7 (Chapter 11).";
- (3) in Chapter 11, in sub-heading Nos. 1102.00 and 1103.00, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;
- (4) in Chapter 13, in NOTE 1, for clause (f), the following clause shall be substituted, namely:—

"(f) Essential oils, concretes, absolutes, resinoids, extracted oleoresins, aqueous distillates or aqueous solutions of essential oils or preparations based on odoriferous substances of a kind used for the manufacture of beverages (Chapter 33); or";
- (5) in Chapter 15,—
 - (i) in NOTE 1, in clause (e), the words "in an isolated state" shall be omitted;
 - (ii) heading No. 15.05 and the entries relating thereto shall be omitted;
 - (iii) in sub-heading Nos. 1507.00 and 1508.10, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;
- (6) in Chapter 17,—
 - (i) in sub-heading No. 1701.90, for the entry in column (4), the entry "18%" shall be substituted;
 - (ii) in sub-heading Nos. 1702.19, 1702.21, 1702.29 and 1702.30, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;
 - (iii) in sub-heading Nos. 1703.10 and 1703.90, for the entry in column (4) occurring against each of them, the entry "Rs. 500 per tonne" shall be substituted;
 - (iv) in sub-heading No. 1704.10, for the entry in column (4), the entry "18%" shall be substituted;
 - (v) in sub-heading No. 1704.90, for the entry in column (4), the entry "8%" shall be substituted;
- (7) in Chapter 18,—
 - (i) after NOTE 2, the following NOTE shall be inserted, namely:—

'3. In relation to products of this Chapter, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture";
 - (ii) for the entry in column (4) occurring against all the sub-heading Nos., the entry "18%" shall be substituted;
- (8) in Chapter 19,—
 - (i) for NOTE 2, the following NOTE shall be substituted, namely:—

"2. Heading No. 19.04 does not cover preparations containing more than 6% by weight of cocoa calculated on a totally defatted basis or coated with chocolates or other food preparations containing cocoa of Chapter 18 (Chapter 18).";
 - (ii) after NOTE 2, the following NOTE shall be inserted, namely:—

'3. In relation to products of this Chapter, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture";
 - (iii) in sub-heading No. 1903.10, in the entry in column (3), the words "and ordinarily intended for sale" shall be omitted;
 - (iv) in sub-heading Nos. 1905.11, 1905.21 and 1905.29, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;
- (9) in Chapter 20, after NOTE 2, the following NOTES shall be inserted, namely:—

'3. In relation to products of this Chapter, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture".

4. In this Chapter, "brand name" means a brand name, whether registered or not, that is to say, a name or a mark, such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person.;

(10) in Chapter 21,—

(i) for NOTE 7, the following NOTE shall be substituted, namely:—

"7. In relation to products of this Chapter, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture";

(ii) in sub-heading Nos. 2101.10 and 2101.20, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(iii) in sub-heading Nos. 2102.90 and 2105.00, for the entry in column (4) occurring against each of them, the entry "13%" shall be substituted;

(iv) in sub-heading Nos. 2107.00, 2108.20 and 2108.99, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(11) in Chapter 22,—

(i) in sub-heading Nos. 2201.19 and 2202.19, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(ii) in sub-heading Nos. 2202.99 and 2203.00, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(12) in Chapter 24,—

(i) in sub-heading No. 2403.11, for the entry in column (4), the entry "Rs. 61 per thousand" shall be substituted;

(ii) in sub-heading No. 2403.12, for the entry in column (4), the entry "Rs. 238 per thousand" shall be substituted;

(iii) in sub-heading No. 2403.13, for the entry in column (4), the entry "Rs. 340 per thousand" shall be substituted;

(iv) in sub-heading No. 2403.14, for the entry in column (4), the entry "Rs. 558 per thousand" shall be substituted;

(v) in sub-heading No. 2403.15, for the entry in column (4), the entry "Rs. 748 per thousand" shall be substituted;

(vi) in sub-heading No. 2404.31, for the entry in column (4), the entry "Rs. 4.60 per thousand" shall be substituted;

(vii) in sub-heading No. 2404.39, for the entry in column (4), the entry "Rs. 11.50 per thousand" shall be substituted;

(13) in Chapter 25,—

(i) after NOTE 3, the following NOTE shall be inserted, namely:—

"4. In relation to marble slabs of heading No. 25.04, if a manufacturer clears irregular y shaped marbles, he shall have the option, to discharge the duty on the slabs by treating one cubic metre of marble blocks as equivalent to 30 square metres of marble slabs, the volume of the blocks being determined with reference to the maximum length, width and height of the block";

(ii) in sub-heading No. 2502.10, for the entry in column (4), the entry "Rs. 200 per tonne" shall be substituted;

(iii) in sub-heading No. 2502.21, for the entry in column (4), the entry "25%" shall be substituted;

(iv) in sub-heading No. 2502.29, for the entry in column (4), the entry "Rs. 350 per tonne" shall be substituted;

(v) in sub-heading Nos. 2502.30, 2502.40, 2502.50 and 2502.90, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(14) in Chapter 26,—

(i) in NOTE 1, for clause (e), the following clause shall be substituted, namely:—

"(e) Waste or scrap of precious metal or of metal clad with precious metal; other waste or scrap containing precious metal or precious metal compounds, of a kind used principally for the recovery of precious metal (Chapter 71); or";

(ii) in heading No. 26.02, for the entry in column (3), the following entry shall be substituted, namely:—

"MANGANESE ORES AND CONCENTRATES, INCLUDING FERRUGINOUS MANGANESE ORES AND CONCENTRATES WITH A MANGANESE CONTENT OF 20% OR MORE, CALCULATED ON THE DRY WEIGHT";

(iii) for the entry in column (4) occurring against all the sub-heading Nos., the entry "8%" shall be substituted;

(15) in Chapter 27, in sub-heading Nos. 2707.10, 2707.20, 2707.30, 2707.40, 2707.50, 2707.60 and 2707.90, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(16) in Chapter 28,—

(i) in NOTE 1, for clause (d), the following clause shall be substituted, namely:—

"(d) The products mentioned in (a), (b) or (c) above with an added stabiliser (including an anti-caking agent) necessary for their preservation or transport";

(ii) in NOTE 3,—

(a) for clause (e), the following clause shall be substituted, namely:—

"(e) Artificial graphite (heading No.38.01); products put up as charges for fire extinguishers or put up in fire-extinguishing grenades, of heading No. 38.13, ink removers put up in packings for retail sale, of heading No.38.24; cultured crystals (other than optical elements) weighing not less than 2.5 g. each, of the halides of the alkali or alkaline-earth metals, of heading No. 38.24;";

(b) for clause (g), the following clause shall be substituted, namely:—

"(g) The metals, whether or not pure, metal alloys or cermets, including sintered metal carbides (metal carbides sintered with a metal), of Section XV; or";

(iii) after NOTE 9, the following NOTE shall be inserted, namely:—

"10. In relation to products of this Chapter, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture";

(iv) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2804.11, 2804.19, 2804.90, 2805.00, 2811.10, 2811.90, 2814.00, 2833.10, 2833.20, 2844.00, 2845.10, 2845.90, 2847.11, 2851.10 and 2851.90), the entry "18%" shall be substituted;

(v) for the entry in column (4) occurring against sub-heading Nos. 2804.11, 2833.10 and 2847.11, the entry "8%" shall be substituted;

(17) in Chapter 29,—

(i) in NOTE 1, for clause (f), the following clause shall be substituted, namely:—

"(f) The products mentioned in (a), (b), (c), (d) or (e) above with an added stabiliser (including an anti-caking agent) necessary for their preservation or transport;";

(ii) in NOTE 2,—

(a) in clause (a), for the word "glycerol", the words "crude glycerol" shall be substituted;

(b) for clause (ij), the following clause shall be substituted, namely:—

"(ij) Products put up as charges for fire-extinguishers or put up in fire-extinguishing grenades, of heading No. 38.13; ink removers put up in packings for retail sale, of heading No.38.24;";

(iii) in NOTE 5,—

(a) in clause (b), for the words "ethyl alcohol or glycerol", the words "ethyl alcohol" shall be substituted;

(b) in clause (d), for the words "ethanol and glycerol", the word "ethanol" shall be substituted;

(iv) after NOTE 10, the following NOTE shall be inserted, namely:—

"11. In relation to products of this Chapter, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture";

(v) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2925.10, 2933.10, 2933.90 and 2934.00), the entry "18%" shall be substituted;

(vi) for the entry in column (4) occurring against sub-heading No. 2925.10, the entry "13%" shall be substituted;

(18) in Chapter 30,—

(i) after NOTE 5, the following NOTE shall be inserted, namely:—

"6. In relation to products of heading No. 30.04, 'brand name' means a brand name, whether registered or not, that is to say, a name or a mark, such as a symbol, monogram, label, signature or invented word or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person.";

(ii) in sub-heading No. 3003.39, for the entry in column (4), the entry "8%" shall be substituted;

(19) in Chapter 31,—

(i) in NOTE 1, in clause (c), for the figures "38.23", the figures "38.24" shall be substituted;

(ii) for the entry in column (4) occurring against sub-heading Nos. 3102.00, 3103.00, 3104.00 and 3105.00, the entry "18%" shall be substituted;

(20) in Chapter 32, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 3215.00), the entry "18%" shall be substituted;

(21) in Chapter 33,—

(i) in NOTE 1, clauses (a) to (c) shall be renumbered as clauses (b) to (d) respectively and before clause (b) as so renumbered, the following clause shall be inserted, namely:—

"(a) Natural oleoresins or vegetable extracts of heading No.13.01;"

(ii) after NOTE 6, the following NOTE shall be inserted, namely:—

"7. The expression "odoriferous substances" in heading No. 33.02 refers only to the substances of heading No. 33.01, to odoriferous constituents isolated from those substances or to synthetic aromatics;"

(iii) in heading No. 33.01, in column (3), for the word "RESINOIDS;" the words "RESINOIDS; EXTRACTED OLEORESINS;" shall be substituted;

(iv) in heading No. 33.02, for the entry in column (3), the following entry shall be substituted, namely:—

"MIXTURES OF ODORIFEROUS SUBSTANCES AND MIXTURES WITH A BASIS OF ONE OR MORE OF THESE SUBSTANCES, OF A KIND USED AS RAW MATERIALS IN INDUSTRY; OTHER PREPARATIONS BASED ON ODORIFEROUS SUBSTANCES, OF A KIND USED FOR THE MANUFACTURE OF BEVERAGES;"

(v) for the entry in column (4) occurring against sub-heading Nos. 3301.00, 3302.10, 3302.90, 3303.00, 3305.10, 3305.91, 3306.90, 3307.31 and 3307.49, the entry "18%" shall be substituted;

(vi) for the entry in column (4) occurring against sub-heading Nos. 3304.00, 3305.99, 3307.10, 3307.20, 3307.39 and 3307.90, the entry "30%" shall be substituted;

(vii) for the entry in column (4) occurring against sub-heading No. 3306.10, the entry "8%" shall be substituted;

(22) in Chapter 34,—

(i) for NOTE 6, the following NOTE shall be substituted, namely:—

"6. In relation to products of this Chapter, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture".;

(ii) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3401.11, 3401.12, 3402.10, 3403.10 and 3406.10), the entry "18%" shall be substituted;

(iii) for the entry in column (4) occurring against sub-heading No. 3401.11, the entry "8%" shall be substituted;

(23) in Chapter 35,—

(i) after NOTE 2, the following NOTE shall be inserted, namely:—

"3. In relation to products of this Chapter, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture".;

(ii) for the entry in column (4) occurring against all the sub-heading Nos., the entry "18%" shall be substituted;

(24) in Chapter 36, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 3605.00), the entry "18%" shall be substituted;

(25) in Chapter 37,—

(i) in NOTE 1, the word "materials" shall be omitted;

(ii) for NOTE 2, the following NOTE shall be substituted, namely:—

"2. In this Chapter, the word "photographic" relates to the process by which visible images are formed, directly or indirectly, by the action of light or other forms of radiation on photosensitive surfaces;"

(iii) in sub-heading Nos. 3701.10 and 3702.10, for the entry in column (4) occurring against each of them, the entry "13%" shall be substituted;

(iv) for the entry in column (4) occurring against sub-heading Nos. 3701.20, 3701.90, 3702.20, 3702.90, 3703.10, 3703.20, 3704.10, 3704.20, 3704.90 and 3707.00, the entry "18%" shall be substituted;

(26) in Chapter 38,—

(i) in NOTE 1, in clause (a),—

(a) for sub-clause (2), the following sub-clause shall be substituted, namely:—

"(2) Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up as described in heading No. 38.08;"

(b) for sub-clause (4), the following sub-clause shall be substituted, namely:—

"(4) Products specified in NOTE 3(a) or 3(c) below;"

(ii) in NOTE 3,—

(a) for the figures "38.23", the figures "38.24" shall be substituted;

(b) for clause (c), the following clause shall be substituted, namely:—

"(c) Ink removers put up in packings for retail sale;"

(iii) after NOTE 4, the following NOTE shall be inserted, namely:—

'5. In relation to products of this Chapter (other than products of heading No. 38.08), labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture";

(iv) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3805.00, 3806.10, 3806.20, 3806.90, 3808.10, 3808.20, 3818.00, 3822.00 and 3823.00), the entry "18%" shall be substituted;

(v) for the entry in column (4) occurring against sub-heading Nos. 3808.10 and 3808.20, the entry "8%" shall be substituted;

(27) in Chapter 39,—

(i) in NOTE 2,—

(a) for clause (d), the following clause shall be substituted, namely:—

"(d) Solutions (other than colloidions) consisting of any of the products specified in heading Nos. 39.01 to 39.13 in, volatile organic solvents when the weight of the solvent exceeds 50% of the weight of the solution (heading No. 32.08); stamping foils of heading No. 32.12;";

(b) clauses (g) to (v) shall be renumbered as clauses (h) to (v) respectively and before clause (h) as so renumbered, the following clause shall be inserted, namely:—

"(g) Diagnostic or laboratory reagents on a backing of plastics (heading No. 38.22);";

(ii) for NOTE 4, the following NOTE shall be substituted, namely:—

'4. The expression "copolymers" covers all polymers in which no single monomer unit contributes 95% or more by weight to the total polymer content.

For the purposes of this Chapter, except where the context otherwise requires, copolymers (including copolycondensates, co-polyaddition products, block copolymers and graft copolymers) and polymer blends are to be classified in the heading covering polymers of that comonomer unit which predominates by weight over every other single comonomer unit. For the purposes of this NOTE, constituent comonomer units of polymers falling in the same heading shall be taken together.

If no single comonomer unit predominates, copolymers or polymer blends, as the case may be, are to be classified in the heading which occurs last in numerical order among those which equally merit consideration.

(iii) after NOTE 15, the following NOTE shall be inserted, namely:—

'16. For the purposes of this Chapter, "insulated ware" shall mean any multi-walled or multi-layered article intended to provide thermal insulation;

(iv) in sub-heading Nos. 3903.20, 3903.30, 3904.61, 3905.10, 3905.20, 3905.90, 3906.10, 3906.20, 3906.90, 3907.10, 3907.20, 3907.30, 3907.40, 3907.50, 3907.60, 3907.70, 3907.80, 3907.91, 3907.99, 3908.10, 3908.90, 3909.10, 3909.20, 3909.30, 3909.40, 3909.51, 3909.52, 3909.59, 3909.60, 3910.00, 3911.10, 3911.20, 3911.90, 3912.11, 3912.12, 3912.20, 3912.31, 3912.39, 3912.90, 3913.10, 3913.20, 3913.30, 3913.90, 3914.00, 3917.00, 3920.21, 3920.22, 3920.23, 3920.24, 3920.25, 3920.26, 3920.27, 3920.28 and 3920.29, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(28) in Chapter 40,—

(i) in sub-heading Nos. 4002.00, 4003.00, 4004.00, 4006.90, 4007.00, 4009.10, 4009.91, 4009.92 and 4009.99, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(ii) in sub-heading No. 4012.11, for the entry in column (4), the entry "45%" shall be substituted;

(iii) in sub-heading No. 4012.90, for the entry in column (4), the entry "25%" shall be substituted;

(iv) in sub-heading Nos. 4014.90, 4015.00, 4016.19, 4016.91, 4016.99, 4017.10 and 4017.20, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(29) in Chapter 42, in sub-heading Nos. 4201.10 and 4201.90, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(30) in Chapter 43, in sub-heading No. 4301.00, for the entry in column (4), the entry "25%" shall be substituted;

(31) in Chapter 44,—

(i) in NOTE 1, for clause (b), the following clause shall be substituted, namely:—

"(b) Bamboos or other materials of a woody nature of a kind used primarily for plaiting, in the rough, whether or not split, sawn lengthwise or cut to length (heading No. 14.01);";

(ii) for NOTE 6, the following NOTE shall be substituted, namely:—

'6. Heading No. 44.10 includes the following goods which are not to be classified in any other heading of this Schedule:
(a) Resin bonded bamboo mats, namely, mats which are made by compressing two or more plies of only hand-woven bamboo mats, with the aid of resins; (b) Resin bonded bamboo mats having veneers in between, namely, mats which are made by compressing two or more plies of only hand-woven bamboo mats having veneers in between, with the aid of resins;

(c) Resin bonded bamboo corrugated roofing sheets, namely, corrugated roofing sheets which are made by compressing two or more plies of woven bamboo mats, with or without veneers, with the aid of resins; and (d) Articles of particle board or similar board, fibreboard or laminated wood.

Heading No. 44.10 does not apply to tools in which the blade, working edge, working surface or other working part is formed by any of the materials specified in Note 1 to Chapter 82.;

(iii) for NOTE 7, the following NOTE shall be substituted, namely:—

"7. Subject to Note 1 above and except where the context otherwise requires, any reference to 'wood' in a heading of this Chapter applies also to bamboos and other materials of a woody nature.;"

(iv) in sub-heading No. 4402.00, for the entry in column (4), the entry "18%" shall be substituted;

(v) in sub-heading Nos. 4406.10, 4406.20, 4406.30, 4406.90, 4407.10 and 4407.90, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(vi) in sub-heading Nos. 4408.10, 4408.20, 4408.30, 4408.40, 4408.90, 4409.00 and 4410.11, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(32) in Chapter 45, in heading No. 4501.00, for the entry in column (4), the entry "18%" shall be substituted;

(33) in Chapter 46, in NOTE 1, for the words and brackets "strips of other vegetable material (for example, raffia, narrow leaves or strips cut from broad leaves) or bark.", the words and brackets "strips of other vegetable material (for example, strips of bark, narrow leaves and raffia or other strips obtained from broad leaves)," shall be substituted;

(34) in SECTION X, in the title, for the words "WASTE AND SCRAP OF PAPER OR PAPERBOARD", the words and brackets "RECOVERED (WASTE AND SCRAP) PAPER OR PAPERBOARD" shall be substituted;

(35) in Chapter 47, in the title, for the words "WASTE AND SCRAP OF PAPER OR PAPERBOARD", the words and brackets "RECOVERED (WASTE AND SCRAP) PAPER OR PAPERBOARD" shall be substituted;

(36) in Chapter 48,—

(i) in NOTE 1, clauses (f) to (n) shall be renumbered as clauses (g) to (o) respectively and before clause (g) as so renumbered, the following clause shall be inserted, namely:—

"(f) Paper impregnated with diagnostic or laboratory reagents (heading No. 38.22);";

(ii) in NOTE 2, the words ", for example, by coating or impregnation," shall be omitted;

(iii) for NOTE 3, the following NOTE shall be substituted, namely:—

"3. In this Chapter "newsprint" means paper of a kind,—

(a) intended for the printing of newspapers; and

(b) manufactured by a manufacturer of newsprint specified under Schedule I of the Newsprint Control Order, 1962, and supplied against a purchase order placed upon such manufacturer by a newspaper which is registered by the Registrar of Newspapers for India under the provisions of the Press and Registration of Books Act, 1867 (25 of 1867).";

(iv) for NOTE 7, the following NOTE shall be substituted, namely:—

"7. Except where the terms of the headings otherwise require, paper, paperboard, cellulose wadding and webs of cellulose fibres answering to a description in two or more of the heading Nos. 48.01 to 48.11 are to be classified under that one of such headings which occurs last in numerical order in this Schedule.;"

(v) after NOTE 11, the following SUB-HEADING NOTES shall be added, namely:—

"SUBHEADING NOTES:

1. Sub-heading No. 4802.10 applies only to writing or printing paper, manufactured from pulp, and supplied directly from the factory of its manufacture against a purchase order,—

(a) placed upon the manufacturer by a State Textbook Publication Corporation or Board, or in the case of States which do not have a State Textbook Publication Corporation or Board, by an officer not below the rank of a Deputy Secretary in the State Government concerned, or by the National Council for Educational Research and Training; and

(b) in which the said Corporation or Board or the said officer of the State Government concerned or the said Council, as the case may be, declares that the said paper shall be used for the printing of educational textbooks.

2. For the purposes of sub-heading No. 4802.20, the establishment, manufacturing the paper and paperboard, shall furnish a certificate, to an officer not below the rank of an Assistant Commissioner of Central Excise, from the Khadi and Village Industries Commission established under section 4 of the Khadi and Village Industries Commission Act, 1956 (61 of 1956), to the effect that such paper or paperboard is commercially recognised as hand-made paper or hand-made paperboard.

3. For the purposes of sub-heading No. 4804.20, the managing director or an officer of equivalent rank, in the Horticultural Produce Marketing or Processing Corporation of the State Government, shall specify the quantity of kraft paper or kraft paperboard intended for the manufacture of cartons for packing horticultural produce, and the manufacturer of cartons shall—

(a) follow the procedure under Chapter X of the Central Excise Rules, 1944; and

(b) furnish, within such period as the Assistant Commissioner of Central Excise having jurisdiction over his factory may specify, a certificate from the managing director of the said corporation to the effect that the cartons manufactured by using the aforesaid quantity of kraft paper or paperboard, have been used for the packing of horticultural produce”;

(vi) in sub-heading Nos. 4803.00, 4806.10, 4806.20, 4806.90, 4807.10, 4807.91, 4807.92, 4807.99, 4809.10, 4809.20, 4809.90, 4810.10, 4810.20, 4810.90, 4812.00, 4813.00, 4814.00, 4815.00 and 4816.00, for the entry in column (4) occurring against each of them, the entry “18%” shall be substituted;

(vii) in sub-heading No. 4819.19, for the entry in column (4), the entry “8%” shall be substituted;

(viii) in sub-heading Nos. 4819.90 and 4822.00, for the entry in column (4) occurring against each of them, the entry “18%” shall be substituted;

(37) in Chapter 49, in sub-heading No. 4901.10, for the entry in column (4), the entry “18%” shall be substituted;

(38) in Chapter 50, in sub-heading No. 5004.19, for the entry in column (4), the entry “18%” shall be substituted;

(39) in Chapter 51,—

(i) in sub-heading Nos. 5105.10, 5105.21, 5105.29, 5105.30, 5105.40, 5106.12, 5106.13, 5107.11 and 5107.12, for the entry in column (4) occurring against each of them, the entry “8%” shall be substituted;

(ii) in sub-heading Nos. 5108.00 and 5109.00, for the entry in column (4) occurring against each of them, the entry “18%” shall be substituted;

(40) in Chapter 52, in sub-heading Nos. 5205.11, 5205.19, 5206.11 and 5206.12, for the entry in column (4) occurring against each of them, the entry “18%” shall be substituted;

(41) in Chapter 53,—

(i) in sub-heading Nos. 5306.11 and 5306.19, for the entry in column (4) occurring against each of them, the entry “18%” shall be substituted;

(ii) in sub-heading Nos. 5307.11 and 5307.12, for the entry in column (4) occurring against each of them, the entry “8%” shall be substituted;

(iii) in sub-heading No. 5308.14, for the entry in column (4), the entry “18%” shall be substituted;

(iv) in sub-heading Nos. 5309.10, 5309.21, 5309.22, 5309.23, 5309.29, 5310.10, 5310.21, 5310.22, 5310.23 and 5310.29, for the entry in column (4) occurring against each of them, the entry “8%” shall be substituted;

(42) in Chapter 54,—

(i) in sub-heading Nos. 5401.10 and 5401.20, for the entry in column (4) occurring against each of them, the entry “18%” shall be substituted;

(ii) in sub-heading Nos. 5402.20, 5402.32, 5402.42, 5402.43, 5402.52 and 5402.62, for the entry in column (4) occurring against each of them, the entry “30%” shall be substituted;

(iii) in sub-heading Nos. 5402.39, 5402.49, 5402.59, 5402.69, 5403.10, 5403.20, 5403.31, 5403.32, 5403.33, 5403.39, 5403.41, 5403.42, 5403.49, 5404.10, 5404.90 and 5405.00, for the entry in column (4) occurring against each of them, the entry “18%” shall be substituted;

(43) in Chapter 55,—

(i) in sub-heading Nos. 5501.10, 5501.20, 5501.30, 5501.90, 5502.00, 5503.10, 5503.20, 5503.30, 5503.40, 5503.90, 5504.10 and 5504.90, for the entry in column (4) occurring against each of them, the entry “18%” shall be substituted;

(ii) in sub-heading No. 5505.10, for the entry in column (4), the entry “Rs.10 per Kg. or 30% whichever is higher” shall be substituted;

(iii) in sub-heading No. 5505.20, for the entry in column (4), the entry “Rs.10 per Kg. or 18% whichever is higher” shall be substituted;

(iv) in sub-heading Nos. 5506.10, 5506.20, 5506.30, 5506.90, 5507.00, 5508.10, 5508.20, 5509.11, 5509.19, 5509.21, 5509.22, 5509.31, 5509.32, 5509.41, 5509.42, 5509.50, 5509.60, 5509.90, 5510.11, 5510.12 and 5510.90, for the entry in column (4) occurring against each of them, the entry “18%” shall be substituted;

(44) in Chapter 56,—

(i) in sub-heading Nos. 5601.10, for the entry in column (4), the entry “13%” shall be substituted;

(ii) in sub-heading Nos. 5603.00 and 5605.00, for the entry in column (4) occurring against each of them, the entry “18%” shall be substituted;

(iii) in sub-heading No. 5607.10, for the entry in column (4), the entry “8%” shall be substituted;

(45) in Chapter 57,—

(i) in sub-heading Nos. 5702.12 and 5703.20, for the entry in column (4) occurring against each of them, the entry “Nil” shall be substituted;

(ii) in sub-heading Nos. 5702.19 and 5703.90, for the entry in column (4) occurring against each of them, the entry “25%” shall be substituted;

(46) in Chapter 58, in sub-heading Nos. 5803.00, 5805.11 and 5805.19, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(47) in Chapter 59,—

(i) in sub-heading Nos. 5901.10 and 5901.90, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(ii) in sub-heading Nos. 5902.10, 5902.20, 5902.90, 5903.10, 5903.20 and 5903.90, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(iii) in sub-heading Nos. 5904.10, 5904.91, 5904.92 and 5905.00, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(iv) in sub-heading No. 5906.99, for the entry in column (4), the entry "18%" shall be substituted;

(v) in sub-heading Nos. 5907.11, 5907.12 and 5907.19, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(vi) in sub-heading No. 5907.90, for the entry in column (4), the entry "25%" shall be substituted;

(48) in Chapter 63, in sub-heading Nos. 6301.10, 6301.20, 6301.30, 6301.40, 6301.90, 6302.00, 6303.00, 6304.00, 6305.10, 6305.20, 6305.90, 6306.00 and 6307.90, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(49) in Chapter 64, in NOTE 1,—

(i) for clause (a), the following clause shall be substituted, namely:—

"(a) Disposal foot or shoe coverings of flimsy material (for example, paper, sheeting of plastics) without applied soles. These products are classified according to their constituent material;"

(ii) clauses (b) to (d) shall be renumbered as clauses (c) to (e) respectively and before clause (c) as so renumbered, the following clause shall be inserted, namely:—

"(b) Footwear of textile material, without an outer sole glued, sewn or otherwise affixed or applied to the upper (Section XI);"

(50) in Chapter 65, for the entry in column (4) occurring against all the sub-heading Nos., the entry "13%" shall be substituted;

(51) in Chapter 66, in sub-heading No. 6601.00, for the entry in column (4), the entry "8%" shall be substituted;

(52) in Chapter 67, for the entry in column (4) occurring against all the sub-heading Nos., the entry "13%" shall be substituted;

(53) in Chapter 68, for the entry in column (4) occurring against all the sub-heading Nos., the entry "18%" shall be substituted;

(54) in Chapter 69, in sub-heading No. 6906.10, for the entry in column (4), the entry "25%" shall be substituted;

(55) in Chapter 70,—

(i) in NOTE 2, for clause (c), the following clause shall be substituted, namely:—

"(c) The expression "absorbent, reflecting or non-reflecting layer" means a microscopically thin coating of metal or of a chemical compound (for example, metal oxide) which absorbs, for example, infra-red light or improves the reflecting qualities of the glass while still allowing it to retain a degree of transparency or translucency; or which prevents light from being reflected on the surface of the glass;"

(ii) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7009.00, 7011.10, 7012.10, 7013.10 and 7015.00), the entry "18%" shall be substituted;

(iii) in sub-heading No. 7009.00, for the entry in column (4), the entry "13%" shall be substituted;

(iv) in sub-heading No. 7015.00, for the entry in column (4), the entry "8%" shall be substituted;

(56) in Chapter 71, in NOTE 1, clauses (d) to (m) shall be renumbered as clauses (e) to (n) respectively and before clause (e) as so renumbered, the following clause shall be inserted, namely:—

"(d) Supported catalysts (heading No. 38.15);"

(57) in Section XV,—

(i) NOTES 3 to 7 shall be renumbered as NOTES 5 to 9 respectively and before NOTE 5 as so renumbered, the following NOTES shall be inserted, namely:—

"3. Throughout this Schedule, the expression "base metals" means : iron and steel, copper, nickel, aluminium, lead, zinc, tin, tungsten (wolfram), molybdenum, tantalum, magnesium, cobalt, bismuth, cadmium, titanium, zirconium, antimony, manganese, beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium.

4. Throughout this Schedule, the term "cermets" means products containing a microscopic heterogeneous combination of a metallic component and a ceramic component. The term "cermets" includes sintered metal carbides (metal carbides sintered with a metal);"

(ii) in NOTE 6 as so renumbered and in clause (b) of NOTE 7 as so renumbered, for the word and figure "NOTE 3", the word and figure "NOTE 5" shall be substituted;

(58) in Chapter 72,—

(i) in NOTE 1, for clauses (l) and (m), the following clauses shall be substituted, namely:—

(l) Bars and rods, hot-rolled, in irregularly wound coils.

Hot-rolled products in irregularly wound coils, which have a solid cross-section in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles or other convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). These products may have indentations, ribs, grooves or other deformations produced during the rolling process (reinforcing bars and rods);

(m) Other bars and rods

Products which do not conform to any of the definitions at (i), (k) or (l) above or to the definition of wire, which have a uniform solid cross-section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles or other convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). These products may:

- have indentations, ribs, grooves or other deformations produced during rolling process (reinforcing bars and rods);
- be twisted after rolling;

(ii) in SUB-HEADING NOTE 1, for clause (d), the following clause shall be substituted, namely:—

"(d) Silico manganese steel

Alloy steels containing by weight:

- not more than 0.7% of carbon,
- 0.5% or more but not more than 1.9% of manganese, and
- 0.6% or more but not more than 2.3% of silicon, but no other element in a proportion that would give the steel the characteristics of another alloy steel."

(59) in Chapter 73,—

(i) after NOTE 2, the following NOTE shall be inserted, namely:—

"3. In relation to pipes and tubes of heading Nos. 73.04, 73.05 and 73.06, the process of drawing or redrawing shall amount to 'manufacture'";

(ii) in heading No. 73.05, for the entry in column (3), the following entry shall be substituted, namely:—

"OTHER TUBES AND PIPES (FOR EXAMPLE, WELDED, RIVETED OR SIMILARLY CLOSED), HAVING CIRCULAR CROSS-SECTIONS, THE EXTERNAL DIAMETER OF WHICH EXCEEDS 406.4 MM, OF IRON OR STEEL";

(iii) in sub-heading No. 7323.10, for the entry in column (4), the entry "8%" shall be substituted;

(60) in Chapter 76, in sub-heading No. 7615.20, for the entry in column (4), the entry "8%" shall be substituted;

(61) in Chapter 82, in sub-heading No. 8215.00, for the entry in column (4), the entry "Nil" shall be substituted;

(62) in Chapter 83, for the entry in column (4) occurring against all the sub-heading Nos., the entry "18%" shall be substituted;

(63) in Section XVI,—

(i) in NOTE 1, in clause (n), for the words and figures " of heading No. 96.03", the brackets, words and figures "(heading No. 96.03)" shall be substituted;

(ii) in NOTE 2,—

(a) in clause (a), for the brackets, words and figures "(other than heading Nos. 84.85 and 85.48)" the brackets, words and figures "(other than heading Nos. 84.09, 84.31, 84.48, 84.66, 84.73, 84.85, 85.03, 85.22, 85.29, 85.38 and 85.48)" shall be substituted;

(b) in clause (b), for the words "of that kind", the words and figures " of that kind or in heading No. 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate" shall be substituted;

(c) for clause (c), the following clause shall be substituted, namely:—

"(c) All other parts are to be classified in heading No. 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate or, failing that, in heading No. 84.85 or 85.48."

(64) in Chapter 84,—

(i) in NOTE 1, for clause (b), the following clause shall be substituted, namely:—

"(b) Machinery or appliances (for example, pumps) of ceramic material and ceramic parts of machinery or appliances of any material (Chapter 69);"

(ii) in NOTE 2, the following shall be inserted at the end, namely:—

"Heading No. 84.24 does not cover :

Ink-jet printing machines (heading No. 84.43 or 84.71).";

(iii) for NOTE 4, the following NOTE shall be substituted, namely:—

"4. Heading No. 84.57 applies only to machine-tools for working metal, other than lathes (including turning centres), which can carry out different types of machining operations either :

(a) by automatic tool change from a magazine or the like in conformity with a machining programme (machining centres),

(b) by the automatic use, simultaneously or sequentially, of different unit heads working on a fixed position, workpiece (unit construction machines, single station), or

(c) by the automatic transfer of the workpiece to different unit heads (multi-station transfer machines).";

(iv) in NOTE 5, for clause (b) and the portion beginning with the words "Heading No." and ending with the words "in residual headings", the following clauses shall be substituted, namely:—

"(b) Automatic data processing machines may be in the form of systems consisting of a variable number of separate units. Subject to paragraph (e) below, a unit is to be regarded as being a part of a complete system if it meets all of the following conditions:

(i) It is of a kind solely or principally used in an automatic data processing system;

(ii) It is connectable to the central processing unit either directly or through one or more other units; and

(iii) It is able to accept or deliver data in a form (codes or signals) which can be used by the system.

(c) Separately presented units of an automatic data processing machine are to be classified in heading No. 84.71.

(d) Printers, keyboards, X-Y co-ordinate input devices and disk storage units, which satisfy the conditions of paragraphs (b)(i) and (b)(iii) above, are in all cases to be classified as units of heading No. 84.71.

(e) Machines performing a specific function other than data processing and incorporating or working in conjunction with an automatic data processing machine are to be classified in the headings appropriate to their respective functions or, failing that, in residual headings."

(v) after NOTE 7, the following NOTE shall be inserted, namely:—

"8. For the purposes of heading No. 84.70, the term "pocket-size" applies only to machines the dimensions of which do not exceed 170 mm. x 100 mm. x 45 mm."

(vi) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8401.10, 8401.90, 8413.11, 8413.12, 8413.13, 8413.14, 8413.20, 8413.91, 8414.10, 8414.20, 8414.30, 8414.91, 8414.92, 8415.00, 8415.10, 8418.90, 8419.10, 8419.80, 8419.91, 8419.99, 8422.10, 8422.80, 8422.90, 8424.10, 8424.91, 8427.00, 8432.00, 8433.00, 8434.10, 8434.90, 8436.00, 8437.00, 8442.10, 8442.90, 8443.10, 8443.90, 8450.10, 8450.90, 8452.00, 8458.00, 8459.00, 8460.00, 8461.00, 8463.00, 8467.10, 8467.90, 8469.10, 8469.90, 8470.00, 8472.00, 8473.00, 8476.11, 8476.19, 8476.90, 8476.99, 8479.10, 8481.10, 8481.20, 8481.91, 8481.92, 8483.00 and 8484.00), the entry "13%" shall be substituted;

(vii) in sub-heading Nos. 8414.30, 8414.92 and 8415.00, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(viii) in sub-heading No. 8418.10, for the entry in column (4), the entry "18%" shall be substituted;

(ix) in sub-heading No. 8418.90, for the entry in column (4), the entry "30%" shall be substituted;

(x) in sub-heading Nos. 8434.10 and 8434.90, for the entry in column (4) occurring against each of them, the entry "Nil" shall be substituted;

(xi) in sub-heading Nos. 8450.10 and 8450.90, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(xii) in sub-heading Nos. 8472.00, 8476.11 and 8476.19, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(xiii) in sub-heading No. 8476.91, for the entry in column (4), the entry "30%" shall be substituted;

(xiv) in sub-heading No. 8476.99, for the entry in column (4), the entry "18%" shall be substituted;

(xv) in sub-heading Nos. 8481.10 and 8481.91, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(65) in Chapter 85.—

(i) in NOTE 4, for the portion beginning with the words "The term" and ending with the words "connecting elements", the following shall be substituted, namely —

"The expression "printed circuits" does not cover circuits combined with elements other than those obtained during the printing process, nor does it cover individual, discreet resistors, capacitors or inductances. Printed circuits may, however, be fitted with non-printed connecting elements."

(ii) after NOTE 6, the following NOTE shall be inserted, namely. —

7 For the purposes of heading No. 85.24, "recording" of sound or other phenomena shall amount to manufacture."

(iii) in sub-heading Nos. 8501.00, 8503.00 and 8504.00, for the entry in column (4) occurring against each of them, the entry "13%" shall be substituted.

(iv) in sub-heading Nos. 8505.00, 8506.00 and 8507.00, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(v) in sub-heading No. 8508.00, for the entry in column (4), the entry "13%" shall be substituted;

(vi) in sub-heading Nos. 8509.00, 8511.00, 8512.00 and 8513.00, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(vii) in sub-heading No. 8514.00, for the entry in column (4), the entry "13%" shall be substituted;

(viii) in sub-heading No. 8516.00, for the entry in column (4), the entry "18%" shall be substituted;

(ix) in sub-heading Nos. 8518.00, 8519.00, 8520.00, 8521.00 and 8523.11, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(x) in sub-heading No. 8523.12, for the entry in column (4), the entry "8%" shall be substituted;

(xi) in sub-heading Nos. 8523.13, 8523.14, 8523.19, 8523.20 and 8523.90, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(xii) in sub-heading Nos. 8525.00 and 8526.00, for the entry in column (4) occurring against each of them, the entry "13%" shall be substituted;

(xiii) in sub-heading No. 8529.00, for the entry in column (4), the entry "18%" shall be substituted;

(xiv) in sub-heading Nos. 8530.00 and 8531.00, for the entry in column (4) occurring against each of them, the entry "13%" shall be substituted;

(xv) in sub-heading Nos. 8532.00, 8533.00 and 8534.00, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(xvi) in sub-heading No. 8535.00, for the entry in column (4), the entry "18%" shall be substituted;

(xvii) in sub-heading No. 8536.10, for the entry in column (4), the entry "30%" shall be substituted;

(xviii) in sub-heading Nos. 8536.90 and 8538.00, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(xix) in sub-heading No. 8540.11, for the entry in column (4), the entry "18%" shall be substituted;

(xx) in sub-heading No. 8540.12, for the entry in column (4), the entry "13%" shall be substituted;

(xxi) in sub-heading Nos. 8540.90, 8541.00 and 8542.00, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(xxii) in sub-heading No. 8543.10, for the entry in column (4), the entry "13%" shall be substituted;

(xxiii) in sub-heading Nos. 8543.90, 8544.10, 8544.90, 8545.00, 8546.00, 8547.00 and 8548.00, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(66) in Section XVII, for NOTE 4, the following NOTE shall be substituted, namely:—

"4. For the purposes of this Section:—

(a) Vehicles specially constructed to travel on both road and rail are classified under the appropriate heading of Chapter 87;

(b) Amphibious motor vehicles are classified under the appropriate heading of Chapter 87;

(c) Aircraft specially constructed so that they can also be used as road vehicles are classified under the appropriate heading of Chapter 88."

(67) in Chapter 86, in sub-heading No. 8607.00, for the entry in column (4), the entry "18%" shall be substituted;

(68) in Chapter 87,—

(i) in NOTE 2, the following shall be inserted at the end, namely:—

"Machines and working tools designed for fitting to tractors of heading No. 87.01 as interchangeable equipment remain classified in their respective headings even if presented with the tractor, and whether or not mounted on it."

(ii) in sub-heading No. 8701.90, for the entry in column (4), the entry "13%" shall be substituted;

(iii) in sub-heading No. 8702.10, for the entry in column (4), the entry "25%" shall be substituted;

(iv) in sub-heading No. 8707.00, for the entry in column (4), the entry "18%" shall be substituted;

(69) in Chapter 89,—

(i) in sub-heading Nos. 8901.00 and 8902.00, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(ii) in sub-heading No. 8903.00, for the entry in column (4), the entry "25%" shall be substituted;

(iii) in sub-heading Nos. 8904.00, 8905.00 and 8906.00, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(iv) in sub-heading No. 8907.00, for the entry in column (4), the entry "25%" shall be substituted;

(70) in Chapter 90,—

(i) in NOTE 1, in clause (h), for the words, brackets and figures "sound heads (heading No. 85.22);", the words, brackets and figures "sound heads (heading No. 85.22); still image video camera and other video camera recorders (heading No. 85.25);" shall be substituted;

(ii) in sub-heading Nos. 9001.90, 9002.00, 9003.90, 9005.00, 9006.00, 9007.00, 9008.00 and 9009.00, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(iii) in sub-heading Nos. 9011.00, 9012.00, 9013.00, 9014.00, 9015.00, 9016.10, 9016.90 and 9017.90, for the entry in column (4) occurring against each of them, the entry "13%" shall be substituted;

(iv) in sub-heading Nos. 9023.00, 9024.00, 9025.00, 9026.00, 9027.00, 9028.00, 9029.00, 9030.00 and 9031.00, for the entry in column (4) occurring against each of them, the entry "13%" shall be substituted;

(v) in sub-heading No. 9032.11, for the entry in column (4), the entry "30%" shall be substituted;

(vi) in sub-heading Nos. 9032.12 and 9032.80, for the entry in column (4) occurring against each of them, the entry "13%" shall be substituted;

(vii) in sub-heading No. 9032.91, for the entry in column (4), the entry "30%" shall be substituted;

(viii) in sub-heading Nos. 9032.99 and 9033.00, for the entry in column (4) occurring against each of them, the entry "13%" shall be substituted;

(71) in Chapter 91,—

(i) in sub-heading Nos. 9101.90 and 9102.00, for the entry in column (4) occurring against each of them, the entry "13%" shall be substituted;

(ii) in sub-heading Nos. 9103.00, 9104.00, 9105.00, 9106.00, 9107.00, 9108.00, 9109.00, 9110.00, 9111.00, 9112.00, 9113.00, and 9114.00, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(72) in Chapter 92,—

(i) for the entry in column (4) occurring against all the sub-heading Nos., the entry "8%" shall be substituted;

(ii) in heading No. 92.06, in column (3), for the word "MARACCAS", the word "MARACAS" shall be substituted;

(73) in Chapter 93, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 9301.00), the entry "18%" shall be substituted;

(74) in Chapter 94,—

(i) in sub-heading Nos. 9401.00 and 9403.00, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(ii) in sub-heading No. 9406.00, for the entry in column (4), the entry "8%" shall be substituted;

(75) in Chapter 95,—

(i) in NOTE 1, for clause (f), the following clause shall be substituted, namely:—

"(f) Pumps for liquids (heading No. 84.13), filtering or purifying machinery and apparatus for liquids or gases (heading No. 84.21), electric motors (heading No. 85.01), electric transformers (heading No. 85.04) or radio remote control apparatus (heading No. 85.26);";

(ii) in sub-heading Nos. 9505.00, 9506.00, 9507.00 and 9508.00, for the entry in column (4) occurring against each of them, the entry "13%" shall be substituted;

(76) in Chapter 96,—

(i) in sub-heading Nos. 9601.00, 9602.00 and 9604.00, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(ii) in sub-heading No. 9605.10, for the entry in column (4), the entry "30%" shall be substituted;

(iii) in sub-heading Nos. 9605.90, 9606.90, 9608.00, 9611.00, 9612.00, 9613.10, 9613.90, 9614.00 and 9616.00, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(iv) in sub-heading No. 9617.00, for the entry in column (4), the entry "15%" shall be substituted;

(v) in sub-heading No. 9618.00, for the entry in column (4), the entry "18%" shall be substituted.

PART - II

Heading No.	Sub-heading No.	Description of Goods	Rate of duty
(1)	(2)	(3)	(4)

In the Schedule to the Central Excise Tariff Act,—

(1) in Chapter 13, for heading No. 13.01 and the entries relating thereto, the following shall be substituted, namely:—

"13.01		LAC; GUMS, RESINS AND OTHER VEGETABLE SAPS AND EXTRACTS	
	1301.10	- In or in relation to the manufacture of which any process is ordinarily carried on with the aid of power	8%
	1301.90	- Other	Nil";

(2) in Chapter 15, for heading No. 15.06, sub-heading Nos. 1506.11, 1506.12 and 1506.20 and the entries relating thereto, the following shall be substituted, namely:—

"15.06	1506.00	GLYCEROL, CRUDE; GLYCEROL WATERS AND GLYCEROL 18%"; LYES	
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(3) in Chapter 19,—

(i) for heading No. 19.01 and the entries relating thereto, the following shall be substituted, namely:—

"19.01		MALT EXTRACT; FOOD PREPARATIONS OF FLOUR, MEAL, STARCH OR MALT EXTRACT, NOT CONTAINING COCOA OR CONTAINING LESS THAN 40% BY WEIGHT OF COCOA CALCULATED ON A TOTALLY DEFATTED BASIS, NOT ELSEWHERE SPECIFIED OR INCLUDED; FOOD PREPARATIONS OF GOODS OF HEADING NOS. 04.01 TO 04.04, NOT CONTAINING COCOA OR CONTAINING LESS THAN 5% BY WEIGHT OF COCOA CALCULATED ON A TOTALLY DEFATTED BASIS, NOT ELSEWHERE SPECIFIED OR INCLUDED	
		- Put up in unit containers	
	1901.11	-- For infant use	Nil
	1901.19	-- Other	18%
		- Other :	
	1901.91	-- Malt extract	18%
	1901.92	-- Food preparations containing malt or malt extract or cocoa powder in any proportion	18%
	1901.99	-- Other	Nil";

(ii) for heading No. 19.02 and the entries relating thereto, the following shall be substituted, namely:—

"19.02		PASTA, WHETHER OR NOT COOKED OR STUFFED (WITH MEAT OR OTHER SUBSTANCES) OR OTHERWISE PREPARED, SUCH AS SPAGHETTI, MACARONI, NOODLES, LASAGNE, GNOCCHI, RAVIOLI, CANNELLONI; COUSCOUS, WHETHER OR NOT PREPARED	
		- Put up in unit containers :	
	1902.11	-- Sayiyan (Vermicelli)	Nil
	1902.19	-- Other	13%
	1902.90	- Other	Nil";

(iii) for heading No. 19.04 and the entries relating thereto, the following shall be substituted, namely:—

"19.04		PREPARED FOODS OBTAINED BY THE SWELLING OR ROASTING OF CEREALS OR CEREAL PRODUCTS (FOR EXAMPLE, CORN FLAKES); CEREALS [OTHER THAN MAIZE (CORN)], IN GRAIN FORM OR IN THE FORM OF FLAKES OR OTHER WORKED GRAINS (EXCEPT FLOUR AND MEAL), PRECOOKED, OR OTHERWISE PREPARED,	
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(1)	(2)	(3)	(4)
		NOT ELSEWHERE SPECIFIED OR INCLUDED	
	1904.10	- Put up in unit containers	13%
	1904.90	- Other	Nil
(4) in Chapter 20, for heading No. 20.01 and the entries relating thereto, the following shall be substituted, namely:—			
"20.01		PREPARATIONS OF VEGETABLES, FRUITS, NUTS OR OTHER PARTS OF PLANTS, INCLUDING JAMS, FRUIT JELLIES, MARMALADES, FRUIT OR NUT PUREE AND FRUIT OR NUT PASTES, FRUIT JUICES AND VEGETABLE JUICES, WHETHER OR NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER	
	2001.10	- Put up in unit containers and bearing a brand name	8%
	2001.90	- Other	Nil
(5) in Chapter 21,—			
(i) in heading No. 21.02, for sub-heading No. 2102.10 and the entries relating thereto, the following sub-heading and the entries relating thereto shall be substituted, namely:—			
	"2102.10	- Put up in unit containers	13%
(ii) for heading No. 21.03 and the entries relating thereto, the following shall be substituted, namely:—			
"21.03		SAUCES, KETCHUP AND THE LIKE AND PREPARATIONS THEREFOR; MIXED CONDIMENTS AND MIXED SEASONINGS; MUSTARD FLOUR AND MEAL AND PREPARED MUSTARD	
	2103.10	- Put up in unit containers and bearing a brand name	8%
	2103.90	- Other	Nil
(iii) for heading No. 21.04 and the entries relating thereto, the following shall be substituted, namely:—			
"21.04		SOUPS AND BROTHS AND PREPARATIONS THEREFOR; HOMOGENISED COMPOSITE FOOD PREPARATIONS	
	2104.10	- Put up in unit containers and bearing a brand name	8%
	2104.90	- Other	Nil
(6) in Chapter 22,—			
(i) in heading No. 22.02, for sub-heading No. 2202.30 and the entries relating thereto, the following shall be substituted, namely:—			
	"2202.30	- Soya milk drinks, whether or not sweetened or flavoured	Nil
	2202.40	- Fruit pulp or fruit juice based drinks	8%
(ii) for heading No. 22.04, and the entries relating thereto, the following shall be substituted, namely:—			
"22.04		ETHYL ALCOHOL OF ANY STRENGTH WHETHER DENATURED OR NOT, BUT NOT INCLUDING ALCOHOLIC LIQUOR FOR HUMAN CONSUMPTION	
	2204.10	- Denatured ethyl alcohol of any strength	18%
	2204.90	- Other	Nil
(7) in Chapter 28,—			
(i) in heading No. 28.04, for sub-heading Nos. 2804.19 and 2804.90 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—			
	"2804.12	- For use in the manufacture of heavy water	Nil
	2804.19	- Other	18%
		- Hydrogen:	
	2804.21	- Consumed within the factory of production	Nil
	2804.29	- Other	18%
		- Nitrogen:	
	2804.31	- For use in the manufacture of heavy water	Nil
	2804.32	- In liquid form, for use in processing and storage of semen for artificial insemination of cattle	Nil
	2804.33	- Consumed within the factory of production	Nil

(1)	(2)	(3)	(4)
	2804.39	-- Other	18%
	2804.40	- Silicon in all forms	13%
	2804.90	- Other	18%";

(ii) for heading No. 28.05 and the entries relating thereto, the following shall be substituted, namely:—

"28.05		ALKALI OR ALKALINE-EARTH METALS; RARE-EARTH METALS, SCANDIUM AND YTTRIUM, WHETHER OR NOT INTERMIXED OR INTERALLOYED; MERCURY	
		Potassium metal :	
	2805.11	-- For use in a heavy water plant	Nil
	2805.12	-- Other	18%
	2805.90	- Other	18%";

(iii) for heading No. 28.11 and the entries relating thereto, the following shall be substituted, namely:—

"28.11		OTHER INORGANIC ACIDS AND OTHER INORGANIC OXYGEN COMPOUNDS OF NON-METALS	
	2811.10	- Carbon dioxide	18%
		- Sulphur dioxide and sulphur trioxide:	
	2811.21	-- Consumed in the manufacture of sulphuric acid, within the factory of production	Nil
	2811.29	-- Other	18%
	2811.90	- Other	18%";

(iv) for heading No. 28.14 and the entries relating thereto, the following shall be substituted, namely:—

"28.14		AMMONIA, ANHYDROUS OR IN AQUEOUS SOLUTION	
	2814.10	- For use in the manufacture of heavy water	Nil
	2814.90	- Other	18%";

(v) for heading No. 28.44 and the entries relating thereto, the following shall be substituted, namely:—

"28.44		RADIOACTIVE CHEMICAL ELEMENTS AND RADIOACTIVE ISOTOPES (INCLUDING THE FISSIONABLE OR FERTILE CHEMICAL ELEMENTS AND ISOTOPES) AND THEIR COMPOUNDS; MIXTURES AND RESIDUES CONTAINING THESE PRODUCTS	
	2844.10	- Nuclear fuel	Nil
	2844.20	- Thorium Hydroxide	Nil
	2844.90	- Other	18%";

(vi) for heading No. 28.45 and the entries relating thereto, the following shall be substituted, namely:—

"28.45		ISOTOPES OTHER THAN THOSE OF HEADING NO. 28.44; COMPOUNDS, INORGANIC OR ORGANIC, OF SUCH ISOTOPES, WHETHER OR NOT CHEMICALLY DEFINED	
	2845.10	- Nuclear fuel	Nil
	2845.20	- Heavy water (Deuterium Oxide)	Nil
	2845.90	- Other	18%";

(vii) for heading No. 28.51 and the entries relating thereto, the following shall be substituted, namely:—

"28.51		OTHER INORGANIC COMPOUNDS (INCLUDING DISTILLED OR CONDUCTIVITY WATER AND WATER OF SIMILAR PURITY); LIQUID AIR (WHETHER OR NOT RARE GASES HAVE BEEN REMOVED); COMPRESSED AIR; AMALGAMS, OTHER THAN AMALGAMS OF PRECIOUS METALS	
	2851.11	Distilled or conductivity water and water of similar purity Used within the factory of production	Nil

(1)	(2)	(3)	(4)
	2851.19	-- Other	18%
		- Liquid air (whether or not any fraction has been removed):	
	2851.21	-- Used within the factory of production	Nil
	2851.29	-- Other	18%
	2851.30	- Compressed air	Nil
	2851.90	- Other	18%";

(8) in Chapter 29,—

(i) for heading No. 29.33 and the entries relating thereto, the following shall be substituted, namely:—

"29.33		HETEROCYCLIC COMPOUNDS WITH NITROGEN HETERO-ATOM(S) ONLY	
	2933.10	- Caprolactum	18%
	2933.90	- Other	18%";

(ii) for heading No. 29.34 and the entries relating thereto, the following shall be substituted, namely:—

"29.34	2934.00	NUCLEIC ACIDS AND THEIR SALTS; OTHER HETEROCYCLIC COMPOUNDS	18%";
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(9) in Chapter 30,—

(i) for heading No. 30.04 and the entries relating thereto, the following shall be substituted, namely:—

"30.04		WADDING, GAUZE, BANDAGES AND SIMILAR ARTICLES (FOR EXAMPLE, DRESSINGS, ADHESIVE PLASTERS, POULTICES), IMPREGNATED OR COATED WITH PHARMACEUTICAL SUBSTANCES OR PUT UP IN FORMS OR PACKINGS FOR MEDICAL, SURGICAL, DENTAL OR VETERINARY PURPOSES	
	3004.10	- Not bearing a brand name	Nil
	3004.90	- Other	15%";

(ii) in heading No. 30.05, after sub-heading No. 3005.20 and the entries relating thereto, the following sub-heading and the entries shall be inserted, namely:—

"3005.30	-	Oral rehydration salts	Nil";
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(10) in Chapter 32, for heading No. 32.15 and the entries relating thereto, the following shall be substituted, namely:—

"32.15		PRINTING INK, WRITING OR DRAWING INK AND OTHER INKS, WHETHER OR NOT CONCENTRATED OR SOLID	
	3215.10	- Writing ink	Nil
	3215.90	- Other	18%";

(11) in Chapter 33,—

(i) in heading No. 33.07, after sub-heading No. 3307.49 and the entries relating thereto, the following sub-headings and the entries relating thereto shall be inserted, namely:—

"3307.50	-	Sterile contact lens care solution	25%
3307.60	-	Kumkum (including sticker kumkum), kajal, sindur, alta or mahavar	Nil";

(12) in Chapter 34,—

(i) in heading No. 34.01, after sub-heading No. 3401.12 and the entries relating thereto, the following sub-heading and the entries shall be inserted, namely:—

"3401.13	--	Laundry soaps produced by a factory owned by the Khadi and Village Industries Commission or any organisation approved by the said commission for the purpose of manufacture of such soaps	Nil";
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(1)	(2)	(3)	(4)
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(13) in Chapter 38,—

(i) for heading No. 38.05 and the entries relating thereto, the following shall be substituted, namely:—

"38.05		GUM, WOOD OR SULPHATE TURPENTINE AND OTHER TURPENIC OILS PRODUCED BY THE DISTILLATION OR OTHER TREATMENT OF CONIFEROUS WOODS; CRUDE DIPENTENE; SULPHITE TURPENTINE AND OTHER CRUDE PARACYMENE; PINE OIL CONTAINING ALPHATERPINEOL AS THE MAIN CONSTITUENT	
		- Turpentine oil:	18%
3805.11		- In or in relation to the manufacture of which any process is ordinarily carried on with the aid of power	Nil
3805.19		- Other	18%";
3805.90		- Other	

(ii) for heading No. 38.06 and the entries relating thereto, the following shall be substituted, namely:—

"38.06		ROSIN AND RESIN ACIDS, AND DERIVATIVES THEREOF; ROSIN SPIRIT AND ROSIN OILS; RUN GUMS	
		- Rosin	18%
3806.11		- In or in relation to the manufacture of which any process is ordinarily carried on with the aid of power	Nil
3806.19		- Other	18%
3806.20		- Ester gums	18%
3806.30		- Run gums	18%";
3806.90		- Other	

(iii) for heading No. 38.18 and the entries relating thereto, the following shall be substituted, namely:—

"38.18		CHEMICAL ELEMENTS DOPED FOR USE IN ELECTRONICS, IN THE FORM OF DISCS, WAFERS OR SIMILAR FORMS; CHEMICAL COMPOUNDS DOPED FOR USE IN ELECTRONICS	
		- Chemical elements doped for use in electronics, in the form of discs, wafers or similar forms:	13%
3818.11		- Of silicon	18%
3818.19		- Of other chemical elements	18%";
3818.90		- Other	

(iv) for heading No. 38.22 and the entries relating thereto, the following shall be substituted, namely:—

"38.22	3822.00	DIAGNOSTIC OR LABORATORY REAGENTS ON A BACKING AND PREPARED DIAGNOSTIC OR LABORATORY REAGENTS WHETHER OR NOT ON A EACKING; OTHER THAN THOSE OF CHAPTER 30	18%";
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(v) for heading No. 38.23 and the entries relating thereto, the following headings, sub-headings and the entries shall be substituted, namely:—

"38.23	3823.00	INDUSTRIAL MONOCARBOXYLIC FATTY ACIDS; ACID OILS FROM REFINING; INDUSTRIAL FATTY ALCOHOLS	8%
38.24		PREPARED BINDERS FOR FOUNDRY MOULDS OR CORES; CHEMICAL PRODUCTS AND PREPARATIONS OF THE CHEMICAL OR ALLIED INDUSTRIES (INCLUDING THOSE CONSISTING OF MIXTURES OF NATURAL PRODUCTS), NOT ELSEWHERE SPECIFIED OR INCLUDED; RESIDUAL PRODUCTS OF THE CHEMICAL OR ALLIED INDUSTRIES, NOT ELSEWHERE SPECIFIED OR INCLUDED	
	3824.10	- Phosphogypsum	13%
	3824.20	- Ready mix concrete	13%
	3824.90	- Other	18%";

(1)	(2)	(3)	(4)
(14) in Chapter 39,—			
(i) for heading No. 39.23 and the entries relating thereto, the following shall be substituted, namely:—			
"39.23		ARTICLES FOR THE CONVEYANCE OR PACKING OF GOODS, OF PLASTICS; STOPPERS, LIDS, CAPS AND OTHER CLOSURES, OF PLASTICS	
	3923.10	- Insulated ware	15%
	3923.90	- Other	25%";
(ii) for heading No. 39.24 and the entries relating thereto, the following shall be substituted, namely:—			
"39.24		TABLEWARE, KITCHENWARE, OTHER HOUSEHOLD ARTICLES AND TOILET ARTICLES, OF PLASTICS	
	3924.10	- Insulated ware	15%
	3924.90	- Other	25%";
(15) in Chapter 40,—			
(i) for heading No. 40.05 and the entries relating thereto, the following shall be substituted, namely:—			
"40.05		COMPOUNDED RUBBER, UNVULCANISED, IN PRIMARY FORMS OR IN PLATES, SHEETS OR STRIP, OTHER THAN THE FORMS AND ARTICLES OF UNVULCANISED RUBBER DESCRIBED IN HEADING NO. 40.06	
	4005.10	- Plates, sheets or strip, whether or not combined with any textile material, in relation to the manufacture of which no credit of the duty paid on the inputs used has been availed under Rule 57A of the Central Excise Rules, 1944	Nil
	4005.20	- Used within the factory of production for the manufacture of excisable goods falling within this Schedule	Nil
	4005.90	- Other	18%";
(ii) for heading No. 40.08 and the entries relating thereto, the following shall be substituted, namely:—			
"40.08		PLATES, BLOCKS, SHEETS, STRIP, RODS, AND PROFILE SHAPES, OF VULCANISED RUBBER OTHER THAN HARD RUBBER	
		- Of cellular rubber:	
	4008.11	- Plates, blocks, sheets and strip of micro-cellular rubber but not of latex foam sponge, used in the manufacture of soles, heels or soles and heels combined, for footwear	Nil
	4008.19	- Other	25%
		- Of non-cellular rubber:	
	4008.21	- Plates, blocks, sheets and strip, used in the manufacture of soles, heels or soles and heels combined, for footwear	Nil
	4008.22	- Plates, sheets and strip, for resoling or repairing or retreading rubber tyres	25%
	4008.29	- Other	18%";
(16) in Chapter 44,—			
(i) for heading No. 44.04 and the entries relating thereto, the following shall be substituted, namely:—			
"44.04		VENEER SHEETS AND SHEETS FOR PLYWOOD (WHETHER OR NOT SLICED) AND OTHER WOOD SAWN LENGTHWISE, SLICED OR PEELED, WHETHER OR NOT PLANED, SANDED OR FINGER-JOINTED, OF A THICKNESS NOT EXCEEDING 6 MM.	
	4404.10	- Veneer sheets, for match boxes and match splints	Nil
	4404.20	- In or in relation to the manufacture of which no process is ordinarily carried on with the aid of power	Nil
	4404.30	- Used within the factory of production for the manufacture of goods falling under sub-heading No. 4410.19 or 4410.90	Nil
	4404.90	- Other	18%";

(1)	(2)	(3)	(4)
(ii) for heading No. 44.05 and the entries relating thereto, the following shall be substituted, namely:—			
"44.05	WOOD (INCLUDING STRIPS AND FRIEZES FOR PARQUET FLOORING, NOT ASSEMBLED) CONTINUOUSLY SHAPED (TONGUED, GROOVED, REBATED, CHAMFERED, V-JOINTED, BEADED, MOULDED, ROUNDED OR THE LIKE) ALONG ANY OF ITS EDGES OR FACES, WHETHER OR NOT PLANED, SANDED OR FINGER-JOINTED		
4405.10	- In or in relation to the manufacture of which no process is ordinarily carried on with the aid of power		Nil
4405.20	- Used within the factory of production for the manufacture of goods falling under sub-heading No. 4410.19 or 4410.90		Nil
4405.90	- Other		18%";
(17) in Chapter 47, for heading No. 47.02 and the entries relating thereto, the following shall be substituted, namely:—			
"47.02	RECOVERED (WASTE AND SCRAP) PAPER OR PAPERBOARD.		
4702.10	- Arising from goods of sub-heading No. 4802.10 in the course of printing of educational textbooks		Nil
4702.90	- Other		18%";
(18) in Chapter 48,—			
(i) for heading No. 48.01 and the entries relating thereto, the following shall be substituted, namely:—			
"48.01	4801.00	NEWSPRINT, IN ROLLS OR SHEETS.	Nil";
(ii) for heading No. 48.02 and the entries relating thereto, the following shall be substituted, namely:—			
"48.02	UNCOATED PAPER AND PAPERBOARD OF A KIND USED FOR WRITING, PRINTING OR OTHER GRAPHIC PURPOSES, AND PUNCH CARD STOCK AND PUNCH TAPE PAPER, IN ROLLS OR SHEETS, OTHER THAN PAPER OF HEADING NO. 48.01 OR 48.03; HAND-MADE PAPER AND PAPERBOARD		
4802.10	- Writing or printing paper for printing of educational textbooks		Nil
4802.20	- Paper or paperboard, in the manufacture of which,— (a) the principal process of lifting the pulp is done by hand; and (b) if power driven sheet forming equipment is used, the Cylinder Mould Vat does not exceed 40 inches		Nil
4802.30	- Maplitho paper supplied to a braille press against an indent placed by the National Institute for Visually Handicapped, Dehradun		Nil
4802.90	- Other		18%";
(iii) for heading No. 48.04 and the entries relating thereto, the following shall be substituted, namely:—			
"48.04	UNCOATED KRAFT PAPER AND PAPERBOARD, IN ROLLS OR SHEETS, OTHER THAN THAT OF HEADING NO. 48.02 OR 48.03		
4804.10	- Kraft paper supplied to a braille press against an indent placed by the National Institute for Visually Handicapped, Dehradun		Nil
4804.20	- Used in the manufacture of cartons for packing of horticultural produce		8%
4804.90	- Other		18%";
(iv) for heading No. 48.05 and the entries relating thereto, the following shall be substituted, namely:—			
"48.05	4805.00	OTHER UNCOATED PAPER AND PAPERBOARD, IN ROLLS OR SHEETS, NOT FURTHER WORKED OR PROCESSED THAN AS SPECIFIED IN NOTE 2 TO THIS CHAPTER	18%";

(1)	(2)	(3)	(4)
(v) for heading No. 48.08 and the entries relating thereto, the following shall be substituted, namely:—			
"48.08	PAPER AND PAPERBOARD, CORRUGATED (WITH OR WITHOUT GLUED FLAT SURFACE SHEETS), CREPED, CRINKLED, EMBOSSED OR PERFORATED, IN ROLLS OR SHEETS, OTHER THAN PAPER OF THE KIND DESCRIBED IN HEADING NO. 48.03		
4808.10	- Corrugated paper and paperboard, whether or not perforated	18%	18%
4808.90	- Other		
(vi) for heading No. 48.11 and the entries relating thereto, the following shall be substituted, namely:—			
"48.11	PAPER, PAPERBOARD, CELLULOSE WADDING AND WEBS OF CELLULOSE FIBRES, COATED, IMPREGNATED, COVERED, SURFACE-COLOURED, SURFACE-DECORATED OR PRINTED, IN ROLLS OR SHEETS, OTHER THAN GOODS OF THE KIND DESCRIBED IN HEADING NO. 48.03, 48.09 OR 48.10		
4811.10	- Tarred, bituminised or asphalted paper and paperboard	18%	18%
4811.20	- Gummed or adhesive paper and paperboard		
	- Paper and paperboard coated, impregnated or covered with plastic (excluding adhesives):		25%
4811.31	- Products consisting of sheets of paper or paperboard, impregnated, coated or covered with plastics (including thermoset resins or mixtures thereof or chemical formulations containing melamine, phenol, urea formaldehyde with or without curing agents or catalysts), compressed together in one or more operations; Products known commercially as decorative laminates		
4811.39	- Other	18%	18%
4811.40	- Paper and paperboard, coated, impregnated or covered with wax, paraffin wax, stearin, oil or glycerol		
4811.90	- Other	18%	
(vii) for heading No. 48.18 and the entries relating thereto, the following shall be substituted, namely:—			
"48.18	TOILET PAPER AND SIMILAR PAPER, CELLULOSE WADDING OR WEBS OF CELLULOSE FIBRES, OF A KIND USED FOR HOUSEHOLD OR SANITARY PURPOSES, IN ROLLS OF A WIDTH NOT EXCEEDING 36 CENTIMETRES, OR CUT TO SIZE OR SHAPE; HANDKERCHIEFS, CLEANSING TISSUES, TOWELS, TABLE CLOTHS, SERVIETTES, NAPKINS FOR BABIES, TAMPONS, BED SHEETS AND SIMILAR HOUSEHOLD, SANITARY OR HOSPITAL ARTICLES, ARTICLES OF APPAREL AND CLOTHING ACCESSORIES, OF PAPER PULP, PAPER, CELLULOSE WADDING OR WEBS OF CELLULOSE FIBRES		
4818.10	- Sanitary towels and tampons, napkins and napkin liners for babies and similar sanitary articles	13%	18%
4818.90	- Other		
(viii) for heading No. 48.23 and the entries relating thereto, the following shall be substituted, namely:—			
"48.23	OTHER PAPER, PAPERBOARD, CELLULOSE WADDING AND WEBS OF CELLULOSE FIBRES, CUT TO SIZE OR SHAPE; OTHER ARTICLES OF PAPER PULP, PAPER, PAPERBOARD, CELLULOSE WADDING OR WEBS OF CELLULOSE FIBRES		
4823.10	- Braille paper	Nil	Nil
4823.20	- Paper pulp moulded trays		
4823.30	- Cellulose insole board or sheet	8%	25%
4823.40	- Products consisting of sheets of paper or paperboard, impregnated, coated or covered with plastics (including thermoset resins or mixtures thereof or chemical formulations		

(1)	(2)	(3)	(4)
	4823.90	containing melamine, phenol or urea formaldehyde with or without curing agents or catalysts), compressed together in one or more operations; Products known commercially as decorative laminates Other	18%;
(19) in Chapter 52, for heading No. 52.04 and the entries relating thereto, the following shall be substituted, namely:—			
"52.04		COTTON SEWING THREAD	
	5204.10	- Cotton sewing thread not containing any synthetic staple fibre	5%
	5204.90	- Other	18%;
(20) in Chapter 64,—			
(i) after sub-heading No. 6401.11 and the entries relating thereto, the following sub-headings and entries shall be inserted, namely:—			
	"6401.12	-- Of value not exceeding Rs.75 per pair	Nil
	6401.13	-- Chappals (sole without upper, to be attached to the foot by thongs passing over the in-step but not even round the ankle) commercially known as hawai chappals, of materials other than leather	Nil;
(ii) after sub-heading No. 6401.91 and the entries relating thereto, the following sub-heading and the entries shall be inserted, namely:—			
	"6401.92	-- Of the hawai chappals of sub-heading No. 6401.13	Nil;
(21) in Chapter 68, for heading No. 68.07 and the entries relating thereto, the following shall be substituted, namely:—			
"68.07		GOODS, IN WHICH MORE THAN 25% BY WEIGHT OF RED MUD, PRESS MUD OR BLAST FURNACE SLAG OR ONE OR MORE OF THESE MATERIALS, HAVE BEEN USED; ALL OTHER ARTICLES OF STONE, PLASTER, CEMENT, ASBESTOS, MICA OR OF SIMILAR MATERIALS, NOT ELSEWHERE SPECIFIED OR INCLUDED	
	6807.10	- Goods, in which more than 25% by weight of red mud, press mud or blast furnace slag or one or more of these materials, have been used	8%
	6807.20	- Blocks, slabs, concrete beams and stairs of a kind used in pre-fabricated buildings of heading No. 94.06	8%
	6807.90	- Other	18%;
(22) in Chapter 69, for heading No. 69.01 and the entries relating thereto, the following shall be substituted, namely:—			
"69.01		BRICKS, BLOCKS, TILES AND OTHER CERAMIC GOODS OF SILICEOUS EARTHS; REFRACTORY CERAMIC GOODS SUCH AS BRICKS, BLOCKS, TILES AND SIMILAR REFRACTORY CERAMIC CONSTRUCTIONAL GOODS AND OTHER REFRACTORY CERAMIC GOODS SUCH AS RETORTS, CRUCIBLES, MUFFLES, NOZZLES, PLUGS, SUPPORTS, CUPELS, TUBES, PIPES, SHEATHS AND RODS	
	6901.10	- Clay bricks other than fire-clay bricks	Nil
	6901.20	- Burnt clay tiles conforming to I. S. specification No. 3367 - 1975	Nil
	6901.90	- Other	15%;
(23) in Chapter 70,—			
(i) for the heading No. 70.02 and the entries relating thereto, the following shall be substituted, namely:—			
"70.02		CAST GLASS AND ROLLED GLASS, IN SHEETS OR PROFILES, DRAWN GLASS AND BLOWN GLASS, IN SHEETS, FLOAT GLASS AND SURFACE GROUND OR POLISHED GLASS, IN SHEETS, WHETHER OR NOT HAVING AN	

(1)	(2)	(3)	(4)
		ABSORBENT, REFLECTING OR NON-REFLECTING LAYER, BUT NOT OTHERWISE WORKED	
	7002.10	- Tinted	18%
	7002.20	- Not tinted	18%;
	(ii) in heading No. 70.10, for sub-heading Nos. 7010.10 and 7010.20 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—		
		- Glass shells, glass globes and glass founts:	
	7010.11	- Globes for lamps and lanterns	Nil
	7010.12	- Founts for kerosene wick lamps	Nil
	7010.19	- Other	18%
		- Glass chimneys:	
	7010.21	- For lamps and lanterns	Nil
	7010.29	- Other	18%;
	(24) in Chapter 71, for heading No. 71.01 and the entries relating thereto, the following shall be substituted, namely:—		
	71.01	NATURAL OR CULTURED PEARLS; PRECIOUS OR SEMI-PRECIOUS STONES; SYNTHETIC OR RECONSTRUCTED PRECIOUS OR SEMI-PRECIOUS STONES; DUST AND POWDER OF NATURAL OR SYNTHETIC PRECIOUS OR SEMI-PRECIOUS STONES; ARTICLES OF NATURAL OR CULTURED PEARLS, PRECIOUS OR SEMI-PRECIOUS STONES (NATURAL, SYNTHETIC OR RECONSTRUCTED); PRECIOUS METALS AND METALS CLAD WITH PRECIOUS METAL; ARTICLES OF JEWELLERY (OTHER THAN IMITATION JEWELLERY) AND PARTS THEREOF; IMITATION JEWELLERY; OTHER ARTICLES OF PRECIOUS METAL OR OF METALS CLAD WITH PRECIOUS METAL; WASTE AND SCRAP OF PRECIOUS METAL OR OF METALS CLAD WITH PRECIOUS METAL; OTHER WASTE AND SCRAP CONTAINING PRECIOUS METAL OR PRECIOUS METAL COMPOUNDS OF A KIND USED PRINCIPALLY FOR RECOVERY OF PRECIOUS METAL; COIN	
	7101.10	- Diamonds, cut or polished or both	Nil
	7101.20	- Piezo-electric quartz	Nil
		- Precious metals, namely, silver, gold and platinum and other metals of the platinum group (unwrought), metals clad with precious metal :	
	7101.31	- Silver	Nil
	7101.39	- Other	18%
	7101.40	- Articles of jewellery (other than imitation jewellery) and parts thereof	18%
	7101.50	- Imitation jewellery	Nil
	7101.60	- Strips, wires, sheets, plates and foils of silver	Nil
	7101.70	- Articles of silver	18%
	7101.80	- Dust and powder of natural or synthetic precious or semi-precious stones; waste and scrap of precious metal or metal clad with precious metal	18%
	7101.90	- Other	18%;
	(25) in Chapter 72,—		
	(i) after sub-heading No. 7204.20 and the entries relating thereto, the following sub-headings and the entries shall be inserted, namely:—		
		- Of stainless steel :	
	7204.21	- Waste and scrap arising out of manufacture of cold rolled stainless steel pattis /patta	Nil
	7204.29	- Other	15%;
	(ii) after sub-heading No. 7219.20 and the entries relating thereto, the following sub-heading and the entries shall be inserted, namely:—		
	7219.30	- Pattis/pattas when subjected to any process other than cold rolling	Nil;

(1)	(2)	(3)	(4)
(iii) after sub-heading No. 7220.20 and the entries relating thereto, the following sub-heading and the entries shall be inserted, namely:—			
"7220.30	-	Pattis / pattas when subjected to any process other than cold rolling	Nil";
(iv) after sub-heading No. 7222.40 and the entries relating thereto, the following sub-heading and the entries shall be inserted, namely:—			
"7222.50	-	Circles used within the factory of production in the manufacture of utensils	Nil";
(26) in Chapter 73,—			
(i) after sub-heading No. 7308.40 and the entries relating thereto, the following sub-heading and the entries shall be inserted, namely:—			
"7308.50	-	All goods fabricated at site of work for use in construction work at such site	Nil";
(ii) in heading No. 73.26, for sub-heading No. 7326.20 and the entries relating thereto, the following shall be substituted, namely:—			
"7326.21	-	Articles of iron or steel wire	Nil
	--	Tyre bead wire rings intended for use in the manufacture of tyres for cycles and cycle-rickshaws	
7326.29	--	Other	15%";
(27) in Chapter 74,—			
(i) for heading No. 74.04 and the entries relating thereto, the following shall be substituted, namely:—			
"74.04		COPPER WASTE AND SCRAP	
7404.10	-	Waste and scrap used within the factory of production for the manufacture of unrefined or unwrought copper, copper sheets or circles and handicrafts	Nil
7404.90	-	Other	15%";
(ii) after sub-heading No. 7408.11 and the entries relating thereto, the following sub-heading and the entries shall be inserted, namely:—			
"7408.12	--	Of which the maximum cross-sectional dimension does not exceed 0.315 mm and used for manufacture of imitation Zari	Nil";
(iii) after sub-heading No. 7408.21 and the entries relating thereto, the following sub-heading and the entries shall be inserted, namely:—			
"7408.22	--	Of which the maximum cross-sectional dimension does not exceed 0.315 mm and used for manufacture of imitation Zari	Nil";
(iv) for heading No. 74.18 and the entries relating thereto, the following shall be substituted, namely:—			
"74.18		TABLE, KITCHEN OR OTHER HOUSEHOLD ARTICLES AND PARTS THEREOF, OF COPPER; POT SCOURERS AND SCOURING OR POLISHING PADS, GLOVES AND THE LIKE, OF COPPER; SANITARY WARE AND PARTS THEREOF, OF COPPER	
7418.10	-	Table, kitchen or other household articles and parts thereof	Nil
7418.90	-	Other	15%";
(28) in Chapter 76, for heading No. 76.02 and the entries relating thereto, the following shall be substituted, namely:—			
"76.02		ALUMINIUM WASTE AND SCRAP	
7602.10	-	Waste and scrap used within the factory of production for the manufacture of unwrought aluminium plates and sheets	Nil
7602.90	-	Other	15%";

(1)	(2)	(3)	(4)
(29) in Chapter 79, for heading No. 79.07 and the entries relating thereto, the following shall be substituted, namely:—			
"79.07	7907.00	OTHER ARTICLES OF ZINC	15%;
(30) in Chapter 80, for heading No. 80.05 and the entries relating thereto, the following shall be substituted, namely:—			
"80.05	8005.00	TIN FOIL (WHETHER OR NOT PRINTED OR BACKED WITH PAPER, PAPERBOARD PLASTICS OR SIMILAR BACKING MATERIALS), OF A THICKNESS (EXCLUDING ANY BACKING) NOT EXCEEDING 0.2 MM; TIN POWDERS AND FLAKES	15%;
(31) in Chapter 82, for heading No. 82.09 and the entries relating thereto, the following shall be substituted, namely:—			
"82.09	8209.00	PLATES, STICKS, TIPS AND THE LIKE FOR TOOLS, UNMOUNTED, OF CERMETS	15%;
(32) in Chapter 84,—			
(i) for heading No. 84.01 and the entries relating thereto, the following shall be substituted, namely:—			
"84.01		NUCLEAR REACTORS; FUEL ELEMENTS (CARTRIDGES), NON-IRRADIATED, FOR NUCLEAR REACTORS; MACHINERY AND APPARATUS FOR ISOTOPIC SEPARATION	Nil
	8401.10	Nuclear fuel	13%;
	8401.90	Other	
(ii) for heading No. 84.19 and the entries relating thereto, the following shall be substituted, namely:—			
"84.19		MACHINERY, PLANT OR LABORATORY EQUIPMENT, WHETHER OR NOT ELECTRICALLY HEATED, FOR THE TREATMENT OF MATERIALS BY A PROCESS INVOLVING A CHANGE OF TEMPERATURE SUCH AS HEATING, COOKING, ROASTING, DISTILLING, RECTIFYING, STERILISING, PASTEURISING, STEAMING, DRYING, EVAPORATING, VAPORISING, CONDENSING OR COOLING, OTHER THAN MACHINERY OR PLANT OF A KIND USED FOR DOMESTIC PURPOSES; INSTANTANEOUS OR STORAGE WATER HEATERS, NON ELECTRIC	
	8419.10	All goods other than parts	13%;
	8419.90	Parts	13%;
(iii) for heading No. 84.22 and the entries relating thereto, the following shall be substituted, namely:—			
"84.22		DISH WASHING MACHINES; MACHINERY FOR CLEANING OR DRYING BOTTLES OR OTHER CONTAINERS; MACHINERY FOR FILLING, CLOSING, SEALING OR LABELLING BOTTLES, CANS, BOXES, BAGS OR OTHER CONTAINERS; MACHINERY FOR CAPSULING BOTTLES, JARS, TUBES AND SIMILAR CONTAINERS; OTHER PACKING OR WRAPPING MACHINERY (INCLUDING HEAT-SHRINK WRAPPING MACHINERY); MACHINERY FOR AERATING BEVERAGES	
	8422.10	Dish washing machines	18%
	8422.80	Other	13%
	8422.90	Parts	13%;
(iv) in heading No. 84.42, for sub-heading Nos. 8442.10 and 8442.90 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—			
"8442.10		Printing blocks and printing types	Nil
8442.20		Lithographic plates used within the factory of its production for printing purposes	Nil
8442.90		Other	13%;

(1)	(2)	(3)	(4)
(v) for heading No. 84.43 and the entries relating thereto, the following shall be substituted, namely:—			
"84.43		PRINTING MACHINERY, INCLUDING INK-JET PRINTING MACHINES, OTHER THAN THOSE OF HEADING NO. 84.71; MACHINES FOR USES ANCILLARY TO PRINTING	
	8443.10	- All goods other than parts	13%
	8443.90	- Parts	13% ;
(vi) for heading No. 84.58 and the entries relating thereto, the following shall be substituted, namely:—			
"84.58	8458.00	LATHES (INCLUDING TURNING CENTRES) FOR REMOVING METAL	13% ;
(vii) for heading No. 84.59 and the entries relating thereto, the following shall be substituted, namely:—			
"84.59	8459.00	MACHINE-TOOLS (INCLUDING WAY-TYPE UNIT HEAD MACHINES) FOR DRILLING, BORING, MILLING, THREADING OR TAPPING BY REMOVING METAL, OTHER THAN LATHES (INCLUDING TURNING CENTRES) OF HEADING NO. 84.58	13% ;
(viii) for heading No. 84.60 and the entries relating thereto, the following shall be substituted, namely:—			
"84.60	8460.00	MACHINE-TOOLS FOR DEBURRING, SHARPENING, GRINDING, HONING, LAPPING, POLISHING OR OTHERWISE FINISHING METAL, OR CERMETS BY MEANS OF GRINDING STONES, ABRASIVES OR POLISHING PRODUCTS, OTHER THAN GEAR CUTTING, GEAR GRINDING OR GEAR FINISHING MACHINES OF HEADING NO. 84.61	13% ;
(ix) for heading No. 84.61 and the entries relating thereto, the following shall be substituted, namely:—			
"84.61	8461.00	MACHINE-TOOLS FOR PLANING, SHAPING, SLOTTING, BROACHING, GEAR CUTTING, GEAR GRINDING OR GEAR FINISHING, SAWING, CUTTING-OFF AND OTHER MACHINE-TOOLS WORKING BY REMOVING METAL, OR CERMETS, NOT ELSEWHERE SPECIFIED OR INCLUDED	13% ;
(x) for heading No. 84.63 and the entries relating thereto, the following shall be substituted, namely:—			
"84.63	8463.00	OTHER MACHINE-TOOLS FOR WORKING METAL, OR CERMETS, WITHOUT REMOVING MATERIAL	13% ;
(xi) for heading No. 84.67 and the entries relating thereto, the following shall be substituted, namely:—			
"84.67		TOOLS FOR WORKING IN THE HAND, PNEUMATIC, HYDRAULIC OR WITH SELF-CONTAINED NON-ELECTRIC MOTOR	
	8467.10	- All goods other than parts	13%
	8467.90	- Parts	13% ;
(xii) for heading No. 84.69 and the entries relating thereto, the following shall be substituted, namely:—			
"84.69		TYPEWRITERS OTHER THAN PRINTERS OF HEADING NO. 84.71; WORD-PROCESSING MACHINES.	
	8469.10	- Braille typewriters	Nil
	8469.90	- Other	15% ;
(xiii) for heading No. 84.70 and the entries relating thereto, the following shall be substituted, namely:—			
"84.70	8470.00	CALCULATING MACHINES AND POCKET-SIZE DATA RECORDING, REPRODUCING AND DISPLAYING MACHINES WITH CALCULATING FUNCTIONS; ACCOUNTING MACHINES, POSTAGE-FRANKING MACHINES, TICKET-ISSUING	18% ;

(1)	(2)	(3)	(4)
		MACHINES AND SIMILAR MACHINES, INCORPORATING A CALCULATING DEVICE, CASH REGISTERS	
		(xiv) for heading No. 84.73 and the entries relating thereto, the following shall be substituted, namely:—	
"84.73		PARTS AND ACCESSORIES (OTHER THAN COVERS, CARRYING CASES AND THE LIKE) SUITABLE FOR USE SOLELY OR PRINCIPALLY WITH MACHINES OF HEADING NOS. 84.69 TO 84.72	
	8473.10	- Graphic and Intelligence Based Script Technology (GIST) cards for multi-lingual computer	13%
	8473.20	- Parts of machines of heading No. 84.71	13%
	8473.90	- Other	18%
		(xv) in heading No. 84.79, for sub-heading No. 8479.10 and the entries relating thereto, the following sub-headings and the entries shall be substituted, namely:—	
		Machines :	
	8479.11	- Briquetting plant and machinery intended for manufacture of briquettes from agricultural and municipal wastes	Nil
	8479.19	- Other	13%
		(xvi) for heading No. 84.83 and the entries relating thereto, the following shall be substituted, namely:—	
"84.83		TRANSMISSION SHAFTS (INCLUDING CAM SHAFTS AND CRANKSHAFTS) AND CRANKS; BEARING HOUSINGS AND PLAIN SHAFTS BEARINGS; GEARS AND GEARING; BALL OR ROLLER SCREWS; GEAR BOXES AND OTHER SPEED CHANGERS, INCLUDING TORQUE CONVERTORS; FLYWHEELS AND PULLEYS, INCLUDING PULLEY BLOCKS; CLUTCHES AND SHAFT COUPLINGS (INCLUDING UNIVERSAL JOINTS)	
	8483.10	- Crankshafts intended for use in sewing machines	Nil
	8483.90	- Other	13%
		(xvii) for heading No. 84.84 and the entries relating thereto, the following shall be substituted, namely:—	
"84.84	8484.00	GASKETS AND SIMILAR JOINTS OF METAL SHEETING COMBINED WITH OTHER MATERIAL OR OF TWO OR MORE LAYERS OF METAL; SETS OR ASSORTMENTS OF GASKETS AND SIMILAR JOINTS, DISSIMILAR IN COMPOSITION, PUT UP IN POUCHES, ENVELOPES OR SIMILAR PACKINGS; MECHANICAL SEALS	13%
		(33) in Chapter 85,—	
		(i) for heading No. 85.02 and the entries relating thereto, the following shall be substituted, namely:—	
"85.02		ELECTRIC GENERATING SETS AND ROTARY CONVERTORS	
	8502.10	- Diesel generating sets assembled, at site of installation, from duty paid engine and generator	Nil
	8502.90	- Other	13%
		(ii) for heading No. 85.10 and the entries relating thereto, the following shall be substituted, namely:—	
"85.10	8510.00	SHAVERS, HAIR CLIPPERS AND HAIR-REMOVING APPLIANCES, WITH SELF-CONTAINED ELECTRIC MOTOR	18%
		(iii) for heading No. 85.15 and the entries relating thereto, the following shall be substituted, namely:—	
"85.15	8515.00	ELECTRIC (INCLUDING ELECTRICALLY HEATED GAS), LASER OR OTHER LIGHT OR PHOTON BEAM, ULTRASONIC, ELECTRON BEAM, MAGNETIC PULSE OR PLASMA ARC SOLDERING, BRAZING OR WELDING MACHINES AND APPARATUS, WHETHER OR NOT CAPABLE OF CUTTING; ELECTRIC MACHINES AND APPARATUS FOR HOT SPRAYING OF METALS OR CERMETS	13%

(1)	(2)	(3)	(4)
(iv) for heading No. 85.17 and the entries relating thereto, the following shall be substituted, namely:—			
"85.17	8517.00	ELECTRICAL APPARATUS FOR LINE TELEPHONY OR LINE TELEGRAPHY, INCLUDING LINE TELEPHONE SETS WITH CORDLESS HANDSETS AND TELECOMMUNICATION APPARATUS FOR CARRIER-CURRENT LINE SYSTEMS OR FOR DIGITAL LINE SYSTEMS; VIDEOPHONES	18% ;
(v) for heading No. 85.22 and the entries relating thereto, the following shall be substituted, namely:—			
"85.22	8522.00	PARTS AND ACCESSORIES SUITABLE FOR USE SOLELY OR PRINCIPALLY WITH THE APPARATUS OF HEADING NOS. 85.19 TO 85.21	18% ;
(vi) for heading No. 85.24 and the entries relating thereto, the following shall be substituted, namely:—			
"85.24		RECORDS, TAPES AND OTHER RECORDED MEDIA FOR SOUND OR OTHER SIMILARLY RECORDED PHENOMENA, INCLUDING MATRICES AND MASTERS FOR THE PRODUCTION OF RECORDS, BUT EXCLUDING PRODUCTS OF CHAPTER 37	
	8524.10	- Gramophone records	13%
	8524.20	- Computer software	Nil
		- Magnetic tapes :	
	8524.31	-- Audio tapes in any form	18%
	8524.32	-- Audio cassettes	8%
	8524.33	-- Video tapes in any form	18%
	8524.34	-- Recorded video cassettes, containing tape of width not exceeding 15 millimetres, manufactured from an unrecorded video cassette	8%
	8524.35	-- Video cassettes, other	18%
	8524.39	-- Other	18%
	8524.40	- Magnetic discs	18%
	8524.90	- Other	18% ;
(vii) for heading No. 85.27 and the entries relating thereto, the following shall be substituted, namely:—			
"85.27		RECEPTION APPARATUS FOR RADIO-TELEPHONY, RADIO-TELEGRAPHY OR RADIO-BROADCASTING, WHETHER OR NOT COMBINED, IN THE SAME HOUSING, WITH SOUND RECORDING OR REPRODUCING APPARATUS OR A CLOCK	
	8527.10	- Radio sets including transistor sets, having the facility of receiving radio signals and converting the same into audio output with no other additional facility like sound recording or reproducing or clock in the same housing or attached to it	8%
	8527.20	- All goods assembled at home as a hobby from readymade kits by individuals for their personal use	Nil
	8527.90	- Other	18% ;
(viii) for heading No. 85.28 and the entries relating thereto, the following shall be substituted, namely:—			
"85.28		TELEVISION RECEIVERS (INCLUDING VIDEO MONITORS AND VIDEO PROJECTORS), WHETHER OR NOT INCORPORATING RADIO BROADCAST RECEIVERS OR SOUND OR VIDEO RECORDING OR REPRODUCING APPARATUS	
	8528.10	- All goods assembled at home as a hobby from readymade kits by individuals for their personal use	Nil
	8528.90	- Other	18% ;
(ix) for heading No. 85.37 and the entries relating thereto, the following shall be substituted, namely:—			
"85.37	8537.00	BOARDS, PANELS, CONSOLES, DESKS, CABINETS AND OTHER BASES, EQUIPPED WITH TWO OR MORE	18% ;

(1)	(2)	(3)	(4)
		APPARATUS OF HEADING NO. 85.35 OR 85.36, FOR ELECTRIC CONTROL OR THE DISTRIBUTION OF ELECTRICITY, INCLUDING THOSE INCORPORATING INSTRUMENTS OR APPARATUS OF CHAPTER 90, AND NUMERICAL CONTROL APPARATUS, OTHER THAN SWITCHING APPARATUS OF HEADING NO. 85.17	
		(x) for heading No. 85.39 and the entries relating thereto, the following shall be substituted, namely:—	
"85.39		ELECTRIC FILAMENT OR DISCHARGE LAMPS, INCLUDING SEALED BEAM-LAMP UNITS AND ULTRA-VIOLET OR INFRA-RED LAMPS; ARC LAMPS.	
	8539.10	Vacuum and gas filled bulbs of value not exceeding Rs. 10 per bulb	8%
	8539.90	Other	13%";
		(34) in Chapter 86,—	
		(i) for heading No. 86.05 and the entries relating thereto, the following shall be substituted, namely:—	
"86.05		RAILWAY OR TRAMWAY PASSENGER COACHES, NOT SELF-PROPELLED; LUGGAGE VANS, POST OFFICE COACHES AND OTHER SPECIAL PURPOSE RAILWAY OR TRAMWAY COACHES, NOT SELF-PROPELLED (EXCLUDING THOSE OF HEADING NO. 86.04)	
	8605.10	Broad gauge second class coaches including postal vans and luggage-cum-brake vans	15%
	8605.20	Metre gauge second class coaches including postal vans and luggage-cum-brake vans	15%
	8605.90	Other	18%";
		(ii) for heading No. 86.06 and the entries relating thereto, the following shall be substituted, namely:—	
"86.06		RAILWAY OR TRAMWAY GOODS VANS AND WAGONS, NOT SELF-PROPELLED.	
	8606.10	Four-wheeler tank-wagons of pay-load not exceeding 23 tonnes	15%
	8606.20	Metre-gauge eight-wheeler covered wagons of pay-load not exceeding 38 tonnes	15%
	8606.30	Metre-gauge-bogie-open eight-wheeler tank wagons of pay-load not exceeding 38 tonnes	15%
	8606.40	Broad-gauge eight-wheeler covered wagons of pay-load not exceeding 60 tonnes	15%
	8606.50	Eight-wheeler tank-wagons of pay-load not exceeding 60 tonnes	15%
	8606.60	Bogie-open-eight-wheeler wagons of pay-load not exceeding 60 tonnes	15%
	8606.70	Broad-gauge bogie-open-eight-wheeler wagons of pay-load exceeding 60 tonnes but not exceeding 67 tonnes	15%
	8606.90	Other	18%";
		(35) in Chapter 87,—	
		(i) for heading No. 87.03 and the entries relating thereto, the following shall be substituted, namely:—	
"87.03		MOTOR CARS AND OTHER MOTOR VEHICLES PRINCIPALLY DESIGNED FOR THE TRANSPORT OF NOT MORE THAN SIX PERSONS, EXCLUDING THE DRIVER, INCLUDING RACING CARS	
	8703.10	Three-wheeled motor vehicles	15%
	8703.90	Other	40%";
		(ii) for heading No. 87.04 and the entries relating thereto, the following shall be substituted, namely:—	
"87.04		MOTOR VEHICLES FOR THE TRANSPORT OF GOODS	
	8704.10	Three-wheeled motor vehicles	15%

(1)	(2)	(3)	(4)
	8704.20	- Motor vehicles, other than petrol driven	15%
	8704.30	- Dumpers, designed,- (a) for use off the highway; (b) with net weight (excluding pay-load) exceeding 8 tonnes; and (c) for maximum pay-load capacity not less than 10 tonnes	15%
	8704.90	- Other	40%";
	(iii) for heading No. 87.06 and the entries relating thereto, the following shall be substituted, namely:—		
"87.06		CHASSIS FITTED WITH ENGINES, FOR THE MOTOR VEHICLES OF HEADING NOS. 87.01 TO 87.05	
		- For the vehicles of heading No.87.01 :	
	8706.11	-- For the vehicles of sub-heading No. 8701.10	Nil
	8706.19	-- For the vehicles of sub-heading No. 8701.90	13%
		- For the vehicles of heading No. 87.02 :	
	8706.21	-- For the vehicles of sub-heading No. 8702.10	25%
	8706.29	-- For the vehicles of sub-heading No. 8702.90	15%
		- For the vehicles of heading No. 87.03 :	
	8706.31	-- For the vehicles of sub-heading No. 8703.10	15%
	8706.39	-- For the vehicles of sub-heading No. 8703.90	40%
		- For the vehicles of heading No. 87.04 :	
	8706.41	-- For the vehicles of sub-heading No. 8704.10	15%
	8706.42	-- For the vehicles of sub-heading No. 8704.20	15%
	8706.49	-- For the vehicles of sub-heading Nos. 8704.30 or 8704.90	40%
	8706.50	- For the vehicles of heading No. 87.05	15%";
	(36) in Chapter 88,—		
	(i) for heading No. 88.02 and the entries relating thereto, the following shall be substituted, namely:—		
"88.02		OTHER AIRCRAFT (FOR EXAMPLE, HELICOPTERS, AEROPLANES); SPACECRAFT (INCLUDING SATELLITES) AND SUBORBITAL AND SPACECRAFT LAUNCH VEHICLES	
		- Helicopters :	
	8802.11	-- Of an unladen weight not exceeding 2,000 kg.	Nil
	8802.12	-- Of an unladen weight exceeding 2,000 kg.	Nil
	8802.20	- Aeroplanes and other aircraft, of an unladen weight not exceeding 2,000 kg.	Nil
	8802.30	- Aeroplanes and other aircraft, of an unladen weight exceeding 2,000 kg. but not exceeding 15,000 kg.	Nil
	8802.40	- Aeroplanes and other aircraft, of an unladen weight exceeding 15,000 kg.	Nil
	8802.60	- Spacecraft (including satellites) and suborbital and spacecraft launch vehicles	Nil";
	(ii) for heading No. 88.04 and the entries relating thereto, the following shall be substituted, namely:—		
"88.04	8804.00	PARACHUTES (INCLUDING DIRIGIBLE PARACHUTES AND PARAGLIDERS) AND ROTOCHUTES; PARTS THEREOF AND ACCESSORIES THERETO	Nil";
	(37) in Chapter 90,—		
	(i) for heading No. 90.04 and the entries relating thereto, the following shall be substituted, namely:—		
"90.04		SPECTACLES, GOGGLES AND THE LIKE, CORRECTIVE, PROTECTIVE OR OTHER	
	9004.10	- Sunglasses, other than those used for correcting vision	8%
	9004.90	- Other	Nil";
	(ii) for heading No. 90.10, and the entries relating thereto, the following shall be substituted, namely:—		
"90.10	9010.00	APPARATUS AND EQUIPMENT FOR PHOTOGRAPHIC (INCLUDING CINEMATOGRAPHIC) LABORATORIES (INCLUDING APPARATUS FOR THE PROJECTION OR DRAWING OF CIRCUIT PATTERNS ON SENSITISED	18%";

(1)

(2)

(3)

(4)

SEMICONDUCTOR MATERIALS), NOT SPECIFIED OR
INCLUDED ELSEWHERE IN THIS CHAPTER;
NEGATOSCOPES; PROJECTION SCREENS

(iii) for heading No. 90.21 and the entries relating thereto, the following shall be substituted, namely:—

"90.21

ORTHOPAEDIC APPLIANCES, INCLUDING CRUTCHES,
SURGICAL BELTS AND TRUSSES; SPLINTS AND OTHER
FRACTURE APPLIANCES; ARTIFICIAL PARTS OF THE
BODY; HEARING AIDS AND OTHER APPLIANCES WHICH
ARE WORN OR CARRIED, OR IMPLANTED IN THE BODY,
TO COMPENSATE FOR A DEFECT OR DISABILITY

9021.10	-	Artificial limbs and rehabilitation aids for the handicapped	Nil
9021.20	-	Orthopaedic footwear, in or in relation to the manufacture of which no process is ordinarily carried on with the aid of power	Nil
9021.90	-	Other	5%";

(iv) for heading No. 90.22, and the entries relating thereto, the following shall be substituted, namely:—

"90.22

APPARATUS BASED ON THE USE OF X-RAYS OR OF ALPHA,
BETA OR GAMMA RADIATIONS, WHETHER OR NOT FOR
MEDICAL, SURGICAL, DENTAL OR VETERINARY USES,
INCLUDING RADIOGRAPHY OR RADIO-THERAPY.
APPARATUS, X-RAY TUBES AND OTHER X-RAY
GENERATORS, HIGH TENSION GENERATORS, CONTROL
PANELS AND DESKS, SCREENS, EXAMINATION OR
TREATMENT TABLES, CHAIRS AND THE LIKE

9022.10	-	For medical, surgical, dental, or veterinary use	5%
9022.90	-	Other	13%";

(38) in Chapter 94,—

(i) for heading No. 94.02 and the entries relating thereto, the following shall be substituted, namely:—

"94.02

MEDICAL, SURGICAL, DENTAL OR VETERINARY FURNITURE
(FOR EXAMPLE, OPERATING TABLES, EXAMINATION
TABLES, HOSPITAL BEDS WITH MECHANICAL FITTINGS,
DENTISTS' CHAIRS); BARBERS' CHAIRS AND SIMILAR
CHAIRS, HAVING ROTATING AS WELL AS BOTH RECLINING
AND ELEVATING MOVEMENTS; PARTS OF THE
FOREGOING ARTICLES

9402.10	-	Medical, surgical, dental, or veterinary furniture and parts thereof	8%
9402.90	-	Other	18%";

(ii) for heading No. 94.05 and the entries relating thereto, the following shall be substituted, namely:—

"94.05

LAMPS AND LIGHTING FITTINGS INCLUDING SEARCHLIGHTS
AND SPOTLIGHTS AND PARTS THEREOF, NOT ELSEWHERE
SPECIFIED OR INCLUDED; ILLUMINATED SIGNS, ILLUMINATED
NAME - PLATES AND THE LIKE, HAVING A PERMANENTLY
FIXED LIGHT SOURCE, AND PARTS THEREOF NOT
ELSEWHERE SPECIFIED OR INCLUDED

9405.10	-	Kerosene pressure lanterns and parts thereof including gas mantles for use in kerosene pressure lanterns	Nil
9405.20	-	Hurricane lanterns	Nil
9405.90	-	Other	18%";

(39) in Chapter 95, for heading No. 95.04 and the entries relating thereto, the following shall be substituted, namely:—

"95.04

ARTICLES FOR FUNFAIR, TABLE OR PARLOUR GAMES,
INCLUDING PINTABLES, BILLIARDS, SPECIAL TABLES FOR
CASINO GAMES AND AUTOMATIC BOWLING ALLEY
EQUIPMENT

9504.10	-	Playing cards	Nil
9504.90	-	Other	13%";

THE FOURTH SCHEDULE

(See section 86)

In the First Schedule to the Additional Duties of Excise Act.—

- (1) in sub-heading No. 2403.11, for the entry in column (4), the entry "Rs. 29 per thousand" shall be substituted;
- (2) in sub-heading No. 2403.12, for the entry in column (4), the entry "Rs. 112 per thousand" shall be substituted;
- (3) in sub-heading No. 2403.13, for the entry in column (4), the entry "Rs. 160 per thousand" shall be substituted;
- (4) in sub-heading No. 2403.14, for the entry in column (4), the entry "Rs. 262 per thousand" shall be substituted;
- (5) in sub-heading No. 2403.15, for the entry in column (4), the entry "Rs. 352 per thousand" shall be substituted;
- (6) in sub-heading No. 2404.31, for the entry in column (4), the entry "Rs. 1.40 per thousand" shall be substituted;
- (7) in sub-heading No. 2404.39, for the entry in column (4), the entry "Rs. 3.50 per thousand" shall be substituted;
- (8) in sub-heading Nos. 5207.21, 5207.22, 5207.23 and 5207.29, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;
- (9) in sub-heading Nos. 5208.21, 5208.22, 5208.23 and 5208.29, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;
- (10) in sub-heading Nos. 5209.21, 5209.22, 5209.23 and 5209.29, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;
- (11) in sub-heading Nos. 5406.21, 5406.22, 5406.23 and 5406.29, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;
- (12) in sub-heading Nos. 5407.21, 5407.22, 5407.23 and 5407.29, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;
- (13) in sub-heading Nos. 5511.21, 5511.22, 5511.23 and 5511.29, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;
- (14) in sub-heading Nos. 5512.21, 5512.22, 5512.23 and 5512.29, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;
- (15) in sub-heading Nos. 5513.21, 5513.22, 5513.23 and 5513.29, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;
- (16) in sub-heading Nos. 5514.21, 5514.22, 5514.23 and 5514.29, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;
- (17) in sub-heading Nos. 5801.22 and 5801.32, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;
- (18) in sub-heading Nos. 5802.22, 5802.32 and 5802.52, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;
- (19) in sub-heading Nos. 6001.11, 6001.12, 6001.21, 6001.22, 6001.91, 6001.92, 6002.30, 6002.42, 6002.43, 6002.92 and 6002.93, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

Sd/-

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 22nd September, 1998.

No. RP/82/97/Act -30/97/E.—The following Act of Parliament is re-published for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 28th May, 1997/ Jyaisitha 7, 1919 (Saka)

The following Act of Parliament received the assent of the President on the 28th May, 1997 and is hereby published for general information :—

THE VICE-PRESIDENT'S PENSION ACT, 1997

(Act No. 30 of 1997)

(28th May, 1997)

AN ACT

to provide for the payment of pension and other facilities to retiring Vice-Presidents.

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Vice-President's Pension Act, 1997.

Short title.

2. (1) There shall be paid to every person who ceases to hold office as Vice-President, either by the expiration of his term of office or by resignation of his office, a pension of six thousand two hundred and fifty rupees per month, for the remainder of his life:

Pension to retiring Vice-Presidents.

Provided that such person shall not be entitled to receive any pension during the period he holds the office of the Prime Minister, a Minister or any other office or becomes a Member of Parliament and is in receipt of salary and allowances which are defrayed out of the Consolidated Fund of India or the Consolidated Fund of a State.

(2) Subject to any rules that may be made in this behalf, every such person shall, for the remainder of his life, be entitled—

(a) to the use of such furnished residence (including its maintenance), without payment of rent, as a Union Deputy Minister is entitled to during his tenure of office under the provisions of the Salaries and Allowances of Ministers Act, 1952;

58 of 1952.

(b) to the use of similar telephone facilities at his residence, as a member of Parliament is entitled to under the provisions of the Salary, Allowances and Pension of Members of Parliament Act, 1954;

30 of 1954.

(c) to secretarial staff; and office expenses not exceeding rupees six thousand per annum;

(d) to the same facilities for himself as respects medical attendance and treatment and on the same conditions as a retired President is entitled to under the provisions of the President's Emoluments and Pension Act, 1951;

30 of 1951.

(e) to the same facilities for his spouse and minor children as respects medical attendance and treatment and on the same conditions as the spouse of a retired President is entitled to under the provisions of the President's Emoluments and Pension Act, 1951; and

30 of 1951.

(f) to travel anywhere in India, accompanied by his spouse, by the executive class by air, and the highest class by rail.

Medical facilities to the family of deceased Vice-President.

Pension to be charged on the Consolidated Fund of India.

Power to make rules.

3. Subject to any rules that may be made in this behalf, the spouse of a person who dies while holding the office of Vice-President shall, for the remainder of life, be entitled to medical attendance and treatment, free of charge.

4. Any sum payable under this Act shall be charged on the Consolidated Fund of India.

5. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Sd/-

Dr. RAGHBIR SINGH,

Additional Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 22nd September, 1998.

No. RP/2/98/Act -31/97/E.—The following Act of Parliament is re-published for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
 (Legislative Department)

New Delhi, the 19th August, 1997/ Shrawana 28, 1919 (Saka).

The following Act of Parliament received the assent of the President on the 18th August, 1997 and is hereby published for general information :—

THE DOCK WORKERS (REGULATION OF EMPLOYMENT)
(INAPPLICABILITY TO MAJOR PORTS) ACT, 1997

(Act No. 31 of 1997)

(18th August, 1997)

AN ACT

to provide for inapplicability of the Dock Workers (Regulation of Employment) Act, 1948 to dock workers of major port trusts and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Dock Workers (Regulation of Employment) (Inapplicability to Major Ports) Act, 1997.

Short title and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appointed day", in relation to a major port, means the date specified under section 3 for that major port;

38 of 1963.

(b) "Board" has the same meaning as in the Major Port Trusts Act, 1963;

9 of 1948.

(c) "Dock Labour Board" means a Dock Labour Board established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948;

15 of 1908.

(d) "major port" has the same meaning as in the Indian Ports Act, 1908.

Inapplicability
of the
provisions of
the Dock
Workers
(Regulation of
Employment)
Act, 1948 to
major ports.

3. The Central Government may, after settlement is arrived at between the Dock Labour Board of any major port, its workmen and the management of that major port in accordance with the provisions of the Industrial Disputes Act, 1947, direct, by notification in the Official Gazette that the provisions of the Dock Workers (Regulation of Employment) Act, 1948 shall cease to have effect in relation to that major port with effect from the date specified in that notification.

14 of 1947.

9 of 1948.

Transfer of
assets and
liabilities of the
Dock Labour
Board, etc., to
the Board.

4. (1) On the appointed day in relation to a major port,—

(a) all property, assets and funds vested in the Dock Labour Board immediately before such day, shall vest in the Board;

(b) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done, by, with or for the Dock Labour Board immediately before such day, for or in connection with the purposes of the Dock Labour Board, shall be deemed to have been incurred, entered into and engaged to be done by, with or for the Board;

(c) all sums of money due to the Dock Labour Board immediately before such day shall be deemed to be due to the Board;

(d) all suits and other legal proceedings instituted by or against the Dock Labour Board immediately before such day for any matter in relation to the Dock Labour Board may be continued by or against the Board;

(e) every employee and worker serving under the Dock Labour Board shall hold office or service under the Board on the terms and conditions which are not in any way less favourable than those which would have been admissible to him if there had not been transfer of his services to the Board and shall continue to do so unless and until his employment in the Board is duly terminated or until his tenure, remuneration or terms and conditions of service are duly altered by the Board.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any employee under this section to the Board shall not entitle such employee to any compensation under that Act or any other law, and no such claim shall be entertained by any court, tribunal or other authority.

14 of 1947.

Sd/-

K. L. MOHANPURIA,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 22nd September, 1998.

No. RI/6/98/Act -32/97/E.—The following Act of Parliament is re-published for general information :—

GOVERNMENT OF INDIA
 MINISTRY OF LAW AND JUSTICE
 (Legislative Department)

New Delhi, the 29th August, 1997/Bhadra 7, 1919 (Saka)

The following Act of Parliament received the assent of the President on the 29th August, 1997 and is hereby published for general information :—

THE INDIRA GANDHI NATIONAL OPEN UNIVERSITY (AMENDMENT) ACT, 1997

(Act No. 32 of 1997)

(29th August, 1997)

AN ACT.

to amend the Indira Gandhi National Open University Act, 1985.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indira Gandhi National Open University (Amendment) Act, 1997.

Short title and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

50 of 1985.

2. In section 3 of the Indira Gandhi National Open University Act, 1985 (hereinafter referred to as the principal Act), to sub-section (2), the following proviso shall be added at the end, namely:—

Amendment of
section 3.

“Provided that the University may, with the prior approval of the Visitor, also establish Study Centres outside India.”

VI-Ex-37-1

37-1

Amendment of
section 6.

3. In section 6 of the principal Act, after the words "whole of India", the words "and to the Study Centres outside India" shall be added.

Sd/-

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 22nd September, 1998.

No. RP/39/98/ORD/12 of 1998/E :—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 24th April, 1998 is republished for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 24th April, 1998/Vaisakha 4, 1920 (Saka)

THE REPRESENTATION OF THE PEOPLE (AMENDMENT)
ORDINANCE, 1998

No. 12 of 1998

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance further to amend the Representation of the People Act, 1951.

WHEREAS the representation of the People (Amendment) Ordinance, 1997 further to amend the Representation of the People Act, 1951 was promulgated by the President on the 23rd day of December, 1997;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the said Ordinance;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Representation of the People (Amendment) Ordinance, 1998.

Short title and
commence-
ment.

(2) It shall be deemed to have come into force on the 23rd day of December, 1997.

Substitution of
new section for
section 159 of
Act 43 of 1951.

2. For section 159 of the Representation of the People Act, 1951, (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

Staff of certain
authorities to be
made available
for election
work.

"159. (1) The authorities specified in sub-section (2) shall, when so requested by a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State, make available to any returning officer such staff as may be necessary for the performance of any duties in connection with an election.

(2) The following shall be the authorities for the purposes of sub-section (1), namely:—

(i) every local authority;

(ii) every university established by a Central, Provincial or State Act;

(iii) any other institution, concern or undertaking (not being an institution, a concern or an undertaking established under a Central, Provincial or State Act or a company within the meaning of section 617 of the Companies Act, 1956) controlled, or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government."

Repeal and
saving.

3. (1) The Representation of the People (Amendment) Ordinance, 1997, is hereby repealed.

Ord.
23 of 1997.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the Ordinance so repealed, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

Sd/-
K. R. NARAYANAN,
President.

Sd/-
RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 22nd September, 1998.

No. RP/40/98/ORD/14 of 1998/E :—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 25th April, 1998 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 25th April, 1998/Vaisakha 5, 1920 (Saka)

THE ELECTRICITY REGULATORY COMMISSIONS ORDINANCE,
1998
No. 14 of 1998

Promulgated by the President in the Forty-ninth Year of the
Republic of India.

An Ordinance to provide for the establishment of a Central Electricity Regulatory Commission and State Electricity Regulatory Commissions, rationalization of electricity tariff, transparent policies regarding subsidies, promotion of efficient and environmentally benign policies and matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that the circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Electricity Regulatory Commissions Ordinance, 1998.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

Short title;
extent and
commence-
ment.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(a) "Central Commission" means the Central Electricity Regulatory Commission established under sub-section (1) of section 3;

(b) "Chairperson" means the Chairperson of the Commission;

(c) "Commission" means, the Central Commission or the State Commission, as the case may be;

(d) High Court means,—

(i) the High Court within the jurisdiction of which the aggrieved party ordinarily resides or carries on business or personally works for gain; and

(ii) where Central Government is the aggrieved party, the High Court within the jurisdiction of which the respondent, or in a case where are more than one respondent ordinarily resides or carries on business or personally works for gain.

(e) "Member" means the Member of the Commission and includes the Chairperson but does not include a Member ex-officio;

(f) "prescribed" means prescribed by rules made under this Ordinance;

(g) "regulations" means regulations made under this Ordinance;

(h) "State Commission" means the State Electricity Regulatory Commission established under sub-section (1) of section 17;

(i) "transmission utility" means any generating company, board, licensee or other person engaged in the transmission of energy;

(j) "utility" means any person or entity engaged in the generation, transmission, sale, distribution or supply, as the case may be, of energy;

(j) words and expressions used and not defined in this Ordinance but defined in the Electricity (Supply) Act, 1948 or the Indian Electricity Act, 1910 shall have the meanings respectively assigned to them in those Acts.

54 of 1948.
9 of 1910.

CHAPTER II**CENTRAL ELECTRICITY REGULATORY COMMISSION**

Establishment and incorporation of Central Commission.

3. (1) The Central Government, shall, within three months from the date of the commencement of this Ordinance by notification in the Official Gazette, establish a body to be known as the Central Electricity Regulatory Commission to exercise the powers conferred on and the functions assigned to it under this Ordinance.

(2) The Central Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Central Commission shall be at such place as the Central Government may, by notification in the Official Gazette, specify.

(4) The Central Commission shall consist of the following Members, namely:-

(a) a Chairperson and three other Members;

54 of 1948.

(b) the Chairman of the Central Electricity Authority appointed under sub-section (3) of section 3 of the Electricity Supply Act, 1948, who shall be Member ex-officio.

(5) The Chairperson and the other Members of the Central Commission shall be appointed by the Central Government on the recommendation of the Selection Committee referred to in section 5:

Provided that nothing contained in this sub-section shall apply to the appointment of a person as the Chairperson, where such person is or has been a Judge of the Supreme Court or the Chief Justice of a High Court.

4. (1) The Chairperson and the Members of the Central Commission shall be persons having adequate knowledge, experience or shown capacity in dealing with problems relating to engineering, law, economics, commerce, finance or management and shall be appointed in the following manner, namely:—

Qualification for appointment of Chairperson and other Members of the Central Commission.

(a) one person having qualification and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity;

(b) one person having qualification and experience in the field of finance; and

(c) two persons having qualification and experience in the field of economics, commerce, law or management:

Provided that not more than one Member shall be appointed under the same category under clause (c).

(2) Notwithstanding anything contained in sub-section (1), the Central Government may appoint any person as the Chairperson from amongst persons who is or has been Judge of the Supreme Court or the Chief Justice of a High Court:

Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of India.

(3) The Chairperson or any other Member of the Central Commission shall not hold any other office.

(4) The Chairperson shall be the Chief Executive of the Central Commission.

5. (1) The Central Government shall, for the purpose of sub-section (5) of section 3, constitute a Selection Committee consisting of—

Constitution of the Selection Committee to recommend Members.

(a) Member of the Planning Commission in charge of the energy sector — Chairperson;

(b) Secretary-in-charge of the Ministry of the Central Government dealing with the Department of Legal Affairs — Member;

(c) Chairman of the Public Enterprises Selection Board — Member;

(d) a person to be nominated by the Central Government in accordance with sub-section (2) — Member;

(e) a person to be nominated by the Central Government in accordance with sub-section (3). — Member;

(f) Secretary-in-charge of the Ministry of the Central Government dealing with Power; — Convenor;

(2) For the purposes of clause (d) of sub-section (1), the Central Government shall nominate from amongst persons holding the post of Chairman or Managing Director by whatever name called of any public financial institution specified in section 4A of the Companies Act, 1956.

1 of 1956.

(3) For the purposes of clause (e) of sub-section (1), the Central Government shall nominate from amongst persons holding the post of Director or the head of the institution, by whatever name called of any research, technical or management institution notified by the Central Government in the Official Gazette for this purpose.

(4) The Central Government shall within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or end of tenure of any Chairperson or Member, make a reference to the Selection Committee for filling up of the vacancy.

(5) The Selection Committee shall finalise the selection of the Chairperson and Members within one month from the date on which the reference is made to it.

(6) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(7) Before recommending any person for appointment as a Chairperson or other Member of the Central Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as a Member.

(8) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.

Term of office, salary and allowances and other conditions of service, of Chairperson and Members.

6. (1) The Chairperson or other Member shall hold office as such for a term of five years from the date on which he enters upon his office, but shall not be eligible for re-appointment:

Provided that no Chairperson or other Member shall hold office as such after he has attained—

(a) in the case of the Chairperson, the age of sixty-five years, and

(b) in the case of any other Member, the age of sixty-two years.

(2) The salary and allowances payable to and the other terms and conditions of service of the Chairperson and other Members shall be such as may be prescribed.

(3) The salary, allowances and other conditions of service of the Chairperson and the Members shall not be varied to their disadvantage after appointment.

(4) The Chairperson and every Member shall before entering upon his office, make and subscribe to, an oath of office and of secrecy in such form and in such manner and before such authority as may be prescribed.

(5) Notwithstanding anything contained in sub-section (1), Chairperson or any Member may—

(a) relinquish his office by giving in writing to the President notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 7.

(6) The Chairperson or any Member ceasing to hold office as such shall—

(a) be ineligible for further employment under the Central Government or any State Government for a period of two years from the date he ceased to hold such office;

(b) not accept any commercial employment for a period of two years from the date he ceased to hold such office;

(c) not represent any person before the Central Commission or a State Commission in any manner.

Explanation.—For the purposes of this sub-section,—

(i) employment under the Central Government or under the State Government includes employment under any local or other authority within the territory of India or under the control of the Central Government or State Government or under any corporation or society owned or controlled by the Government.

(ii) "commercial employment" means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in the electricity industry and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

7. (1) Subject to the provisions of sub-section (3), any Member of the Central Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Member, ought on any such ground to be removed.

Removal of
Members.

(2) The President may suspend any Member of the Central Commission in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court.

(3) Notwithstanding anything in sub-section (1), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be,—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(4) Notwithstanding anything contained in sub-section (3), no Member shall be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court, on a reference being made to it in this behalf by the President; has, on an enquiry, held by it in accordance with such procedure as prescribed in this behalf by the Supreme Court, reported that the member ought on such ground or grounds to be removed.

Officers of
the Central
Commission
and other
staff.

8. (1) The Central Commission may appoint a Secretary to exercise and perform under the control of the Chairperson such duties and powers as may be specified by regulations made by the Central Commission.

(2) The Central Commission may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required to assist the Central Commission in the discharge of its functions.

(3) The salaries and allowances payable to and other conditions of service of the Secretary, officers and other employees shall be such as may be determined with the approval of the Central Government by regulations.

(4) The Central Commission may appoint consultants required to assist the Central Commission in the discharge of its functions on terms and conditions as may be determined by regulations made by the Central Commission.

Proceedings
of the
Central
Commission.

9. (1) The Central Commission shall meet at the head office or any of its offices at such times as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be determined by regulations.

(2) The Chairperson or, if he is unable to attend a meeting of the Central Commission, any other Member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from among themselves, shall preside at the meeting.

(3) All questions which come up before any meeting of the Central Commission shall be decided by a majority of votes of the Members (including the Member ex-officio) present and voting, and in the event of an equality of votes, the Chairperson or the person presiding shall have the right to exercise a second or casting vote.

(4) Save as otherwise provided in sub-section (3), every Member of the Board shall have one vote.

(5) All orders and decisions of the Central Commission shall be authenticated by the Secretary or any other officer of the Central Commission duly authorised by the Chairperson in this behalf.

Vacancies,
etc., not to
invalidate
the proceed-
ings of the
Central
Commission.

10. No act or proceedings of the Central Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Central Commission.

Expenses of
Central
Commission
to be charged
on Consoli-
dated Fund
of India.

11. The expenses of the Central Commission including all salaries and allowances payable to or in respect of the Chairperson and the Members of the Central Commission shall be charged upon the Consolidated Fund of India.

5 of 1908.

12. The Central Commission shall, for the purposes of any inquiry or proceedings under this Ordinance have the powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of the following matters, namely,—

Powers of
the Central
Commis-
sion.

(a) the summoning and enforcing of attendance of any witness and examining on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the requisition of any public record;

(e) the issue of commission for examination of witnesses;

(f) any other matter which may be prescribed.

CHAPTER III

POWERS AND FUNCTIONS OF THE CENTRAL COMMISSION

13. The Central Commission shall discharge all or any of the following functions, namely:—

Functions
of the
Central
Com-
mission.

(a) to regulate the tariff of generating companies owned or controlled by the Central Government;

(b) to regulate the tariff of generating companies, other than those owned or controlled by the Central Government specified in clause (a), if such generating companies enter into or otherwise have a composite scheme for generation and sale of electricity in more than one State;

(c) to regulate,—

(i) the inter-state transmission of energy including tariff of the transmission utilities;

(ii) conveyance of energy by means of a main transmission line from the territory of one State to the territory of another State;

(iii) conveyance of energy across the territory of an intervening State as well as conveyance within the State which is incidental to such inter-State transmission of energy;

(iv) the transmission of energy within the territory on a system built, owned, operated, maintained or controlled by a central transmission utility or by any person

under the supervision and control of a central transmission utility.

(d) to promote competition, efficiency and economy in the activities of the electricity industry;

(e) to aid and advise the Central Government in the formulation of tariff policy which shall be,—

(i) fair to the consumers;

(ii) facilitate mobilisation of adequate resources for the power sector;

(f) to associate with the environmental regulatory agencies to develop appropriate policies and procedures for environmental regulation of the power sector;

(g) to frame guidelines in matters relating to electricity tariff;

(h) to arbitrate or adjudicate upon disputes involving generating companies or transmission utilities in regard to matters connected with clause (a) to (c) above;

(i) to aid and advise the Central Government on any other matter referred to the Central Commission by that Government.

The Central
Advisory
Committee.

14. (1) The Central Commission may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the Central Advisory Committee.

(2) The Central Advisory Committee shall consist of not more than thirty-one members to represent the interests of commerce, industry, transport, agriculture, labour, consumers, non-governmental organisations and academic and research bodies in the energy sector.

(3) The Chairperson and Members of the Central Commission shall be ex-officio Chairperson and ex-officio Members of the Central Advisory Committee.

Object of
the Central
Advisory
Committee.

15. The objects of the Central Advisory Committee shall be to advise the Central Commission on,—

(i) major questions of policy;

(ii) matters relating to quality, continuity and extent of service provided by the licencees;

(iii) compliance by licencees with the condition and requirements of their license;

(iv) protection of consumer interest; and

(v) energy supply and overall standards of performance by utilities.

Appeal to
High Court
in certain
cases.

16. (1) Any person aggrieved by any decision or order of the Central Commission may file an appeal to the High Court.

(2) Except as aforesaid, no appeal or revision shall lie to any court from any decision or order of the Central Commission.

(3) Every appeal under this section shall be preferred within sixty days from the date of communication of the decision or order of the Central Commission to the person aggrieved by the said decision or order.

Provided that the High Court may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that the aggrieved person had sufficient cause for not preferring the appeal within the said period of sixty days.

CHAPTER IV

STATE ELECTRICITY REGULATORY COMMISSION

17. (1) The State Government shall within three months from the commencement of this Ordinance, by notification in the Official Gazette, establish, for the purposes of this Ordinance, a _____ (name of the State) Electricity Regulatory Commission. Establishment and incorporation of State Commission.

(2) The State Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the State Commission shall be at such place as the State Government may, by notification in the Official Gazette, specify.

(4) The State Commission shall consist of not more than three Members including the Chairperson.

(5) The Chairperson and the Members of the State Commission shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in dealing with problems relating to, engineering, finance, commerce, economics, law or management.

(6) The Chairperson and the Members of the State Commission shall be appointed by the State Government on the recommendation of a Selection Committee referred to in section 18.

(7) Notwithstanding anything contained in sub-section (5) or sub-section (6), the State Government may appoint any person as the Chairperson from amongst person who is or has been a Judge of a High Court:

Provided that no appointment under this clause shall be made except after consultation with the Chief Justice of that High Court.

(8) The Chairperson shall be the chief executive of the State Commission.

18. (1) The State Government shall, for the purposes of selecting the Members of the State Electricity Commission, constitute a Selection Committee consisting of,-- Constitution of Selection Committee by the State Government.

(a) a person who has been a Judge of the High Court; - Chairperson;

(b) Chief Secretary of the concerned State; - Member;

(c) Chairperson or a member of the Central Electricity Regulatory Authority - Member.

Provided that nothing contained in this sub-section shall apply to the appointment of a person as the Chairperson who is or has been a judge of the High Court.

(2) No appointment of a Member shall be invalid merely by reason of any vacancy in the Selection Committee.

(3) The State Government shall within one month from the date of occurrence of any vacancy by reason of death, resignation or removal and six months before the superannuation or end of tenure of any Chairperson or a Member, make a reference to the Selection Committee for filling up of the vacancy.

(4) The Selection Committee shall finalise the selection of the Members within one month from the date on which the reference is made to it.

(5) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(6) Before recommending any person for appointment as a Member, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as a Member.

Term of office, salary and allowances and other conditions of service of Chairperson and Members.

19. (1) The Chairperson or other Member shall hold office as such for a term of five years from the date on which he enters upon his office, but shall not be eligible for re-appointment:

Provided that no Chairperson or other Member shall hold office as such after he has attained,—

(a) in the case of the Chairperson, the age of sixty-five years, and

(b) in the case of any other Member, the age of sixty-two years.

(2) The salary and allowances payable to and the other terms and conditions of service of the Members of the State Commission shall be such as may be prescribed by the State Government.

(3) The salary, allowances and other conditions of service of the Members shall not be varied to their disadvantage after appointment.

(4) Every Member of the State Commission shall, before entering upon his office, make and subscribe to, an oath of office and of secrecy in such form and in such manner and before such authority as may be prescribed.

(5) Notwithstanding anything contained in sub-section (1) or sub-section (2), a Member may—

(a) relinquish his office by giving in writing to the Governor notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 19.

(6) Any Member ceasing to hold office as such shall—

(a) be ineligible for further employment under the Central Government or any State Government for a period of two years from the date he ceased to hold such office;

(b) not accept any commercial employment for a period of two years from the date

he ceased to hold such office;

(c) not represent any person before the Central Commission or State Commission in any manner.

Explanation.—For the purposes of this sub-section,—

(i) employment under the Central Government or under the State Government includes employment under any local or other authority within the territory of India or under the control of the Central Government or a State Government or under any corporation or society owned or controlled by the Government.

(ii) "commercial employment" means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in the electricity industry and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

20. (1) Subject to the provisions of sub-section (3), any Member of the State Commission shall only be removed from his office by order of the Governor on the ground of proved misbehaviour after the High Court, on reference being made to it by the Governor, has, on inquiry held in accordance with the procedure prescribed in that behalf by the High Court, reported that the Member, ought on any such ground to be removed. Removal of Members.

(2) The Governor may suspend any Member of the State Commission in respect of whom a reference has been made to the High Court under sub-section (1) until the Governor has passed orders on the receipt of the report of the High Court on such reference.

(3) Notwithstanding anything in sub-section (1), the Governor may by order remove from office the Member if he—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(4) Notwithstanding anything contained in sub-section (3), no Member shall be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the High Court on a reference being made to it in this behalf by the Governor, has, on an enquiry, held by it in accordance with such procedure as prescribed in this behalf by the High Court, reported that the Member ought on such ground or grounds to be removed.

Officers of
the State
Commission
and other
staff.

21. (1) The State Commission may appoint a Secretary to exercise and perform under the control of the Chairperson such duties and powers as may be specified by regulations made by the State Commission.

(2) The State Commission may, with the approval of the State Government, determine the number, nature and categories of other officers and employees required to assist the State Commission in the discharge of its functions.

(3) The salaries and allowances payable to and other conditions of service of the Secretary, officers and other employees shall be such as may be determined by regulations with the approval of the State Government.

(4) The State Commission may appoint consultants required to assist the State Commission in the discharge of its functions on terms and conditions as may be determined by regulations by the State Commission.

CHAPTER V

POWERS AND FUNCTIONS OF THE STATE COMMISSION

Functions
of the
State Com-
mission.

22. (1) Subject to the provisions of Chapter III, the State Commission shall discharge the following functions, namely:-

(a) to determine the tariff for electricity, wholesale, bulk, grid or retail, as the case may be, in the manner provided in section 29;

(b) to determine the tariff payable for use of the transmission facilities in the manner provided in section 29;

(c) to regulate power purchase and procurement process of the transmission utilities and distribution utilities including the price at which the power shall be procured from the generating companies, generating stations or from other sources for transmission, sale, distribution and supply in the State;

(d) to promote competition, efficiency and economy in the activities of the electricity industry to achieve the objects and purposes of this Ordinance.

(2) Subject to the provisions of Chapter III and without prejudice to the provisions of sub-section (1), the State Government, may by notification in the Official Gazette confer any of the following functions upon the State Commission, namely:—

(a) to regulate the investment approval for generation, transmission, distribution and supply of power to the entities operating within the State;

(b) to aid and advise the State Government, in matters concerning electricity generation, transmission, distribution and supply in the State;

(c) to regulate the operation of the power system within the State;

(d) to issue licences for transmission, bulk supply, distribution or supply of electricity and determine the conditions to be included in the licences;

(e) to regulate the working of the licensees and other persons authorised or permitted to engage in the electricity industry in the State and to promote their working in an efficient, economical and equitable manner;

(f) to require licensees to formulate perspective plans and schemes in co-ordination with others for the promotion of generation, transmission, distribution, supply and utilisation of electricity, quality of service and to devise proper power purchase and procurement process;

(g) to set standards for the electricity industry in the State including standards relating to quality, continuity and reliability of service;

(h) to promote competitiveness and make avenues for participation of private sector in the electricity industry in the State, and also to ensure a fair deal to the customers;

(i) to lay down and enforce safety standards;

(j) to aid and advise the State Government in the formulation of the State power policy;

(k) to collect and record information concerning the generation, transmission, distribution and utilisation of electricity;

(l) to collect and publish data and forecasts on the demand for, and use of, electricity in the State and to require the licensees to collect and publish such data;

(m) to regulate the assets, properties and interest in properties concerning or related to the electricity industry in the State including the conditions governing entry into, and exit from, the electricity industry in such manner as to safeguard the public interest;

(n) to adjudicate upon the disputes and differences between the licensees and utilities and to refer the matter for arbitration;

(o) to co-ordinate with environmental regulatory agencies and to evolve policies and procedures for appropriate environmental regulations of the electricity sector and utilities in the State; and

(p) to aid and advise the State Government on any other matter referred to the State Commission by such Government;

(3) The State Commission shall exercise its functions in conformity with the national power plan.

23. The provisions of sections 9, 10 and 12 shall apply to a State Commission and shall have effect, subject to the following modifications, namely:—

(a) references to "Central Commission" shall be construed as references to "State Commission";

(b) in sub-section (3) of section 9, the words and brackets "(including the Member ex-officio)" shall be omitted.

24. (1) The State Commission may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the State Advisory Committee.

(2) The State Advisory Committee shall consist of not more than twenty-one members to represent the interests of commerce, industry, transport, agriculture, labour, consumers, non-governmental organisations and academic and research bodies in the energy sector.

Application of certain provisions relating to Central Commission to State Commissions. The State Advisory Committee.

VI. EX. 39-4

(3) The Chairperson and the Members of the State Commission shall be ex-officio Chairperson and ex-officio Members of the State Advisory Committee.

Objects of
the State
Advisory
Committee.

25. The objects of the State Committee shall be to advise the Commission on—

- (i) major questions of policy;
- (ii) matters relating to quality, continuity and extent of service provided by the licencees;
- (iii) compliance by licencees with the conditions and requirements of their license;
- (iv) protection of consumer interest; and
- (v) energy supply and overall standards of performance by utilities.

Represent-
ation before
the
Commis-
sion.

26. The State Commission shall authorise any person as it deems fit to represent the interest of the consumers in all the proceedings before it.

Appeal to
High Court
in certain
cases.

27. (1) Any person aggrieved by any decision or order of the State Commission may file an appeal to the High Court.

(2) Except as aforesaid, no appeal or revision shall lie to any court from any decision or order of the State Commission.

(3) Every appeal under this section shall be preferred within sixty days from the date of communication of the decision or order of the State Commission to the person aggrieved by the said decision or order:

Provided that the High Court may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that the aggrieved person had sufficient cause for not preferring the appeal within the said period of sixty days.

CHAPTER VI

ENERGY TARIFF

Tariff by
Central
Commis-
sion.

28. The Central Commission shall determine by regulations the terms and conditions for fixation of tariff under clauses (a), (b) and (c) of section 13, and in doing so, shall be guided by the following, namely:—

(a) the generating companies and transmission entities shall adopt such principles in order that they may earn an adequate return and at the same time that they do not exploit their dominant position in the generation sale of electricity or in the inter state transmission of electricity;

(b) the factors which would encourage efficiency, economical use of the resources, good performance, optimum investments and other matters which the Central Commission considers appropriate;

(c) national power plans formulated by the Central Government; and

54 of 1948. (d) financial principles and their applications as provided under Schedule VI to the Electricity (Supply) Act, 1948.

29. (1) Notwithstanding anything contained in any other law, the tariff for intra State transmission of electricity and the tariff for supply of electricity, grid, wholesale, bulk or retail, as the case may be, in a State (hereinafter referred to as the "tariff"), shall be subject to the provisions of this Ordinance and the tariff shall be determined by the State Commission of that State in accordance with the provisions of this Ordinance. Tariff by State Commission.

(2) The State Commission shall determine by regulations the terms and conditions for the fixation of tariff, and in doing so, shall be guided by the following, namely:—

54 of 1948. (a) the principles and their applications provided in sections 46, 57 and 57A of the Electricity (Supply) Act, 1948 and the Sixth Schedule thereto;

54 of 1948. (b) in the case of the Board or its successor entities, the principles under section 59 of the Electricity (Supply) Act, 1948;

(c) that the tariff progressively reflects the cost of supply of electricity at an adequate and improving level of efficiency;

(d) the factors which would encourage efficiency, economical use of the resources, good performance, optimum investments, and other matters which the State Commission considers appropriate for the purposes of this Ordinance;

(e) the interests of the consumers are safeguarded and at the same time, the consumers pay for the use of electricity in a reasonable manner based on the average cost of supply of energy;

(f) the electricity generation, transmission, distribution and supply are conducted on commercial principles;

(g) national power plans formulated by the Central Government;

(3) No consumer or class of consumers shall be charged less than fifty percent. of the average cost of supply of energy:

Provided that if the State Commission considers it necessary it may allow the consumers in the agricultural sector to be charged less than fifty per cent. subject to the condition that the charges less than the said fifty per cent. shall not be allowed after the expiry of a period of three years from the commencement of this Ordinance.

(4) If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under this section, the State Government shall pay the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the licensee, or any other person concerned to implement the subsidy provided for by the State Government.

(5) Subject to the provisions of sub-section (3), the State Commission, while determining the tariff under this Ordinance, shall not show undue preference to any consumer of electricity, but may differentiate according to the consumer's load factor, power factor, total consumption of energy during any specified period or the time at

which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.

(6) The holder of each licence and other persons including the Board or its successor body authorised to transmit, sell, distribute or supply electricity wholesale, bulk or retail, in the State shall observe the methodologies and procedures specified by the State Commission from time to time in calculating the expected revenue from charges which he is permitted to recover and in determining tariffs to collect those revenues.

Reasons for
deviation
by the
Commis-
sions.

30. Where the Commissions depart from factors specified in clauses (a) to (d) of section 28 and clauses (a) to (f) of sub-section (2) of section 29, they shall record the reasons for such departure in writing.

CHAPTER VII

ACCOUNTS, AUDIT AND REPORTS

Budget of
the Central
Commis-
sion.

31. The Central Commission shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Central Commission and forward the same to the Central Government.

Accounts
and audit
of Central
Commis-
sion.

32. (1) The Central Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Central Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Central Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Central Commission under this Ordinance shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Central Commission.

(4) The accounts of the Central Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Central Commission and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

Budget of
the State
Commis-
sion.

33. The State Commissions shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the State Commission and forward the same to the State Government.

34. (1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

Accounts and audit of the State Commission.

(2) The accounts of the State Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the State Commission under this Ordinance shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Commission.

(4) The accounts of the State Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

35. (1) The Central Commission shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

Annual report of the Central Commission.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.

36. (1) The State Commission shall prepare once every year in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the State Government.

Annual report of the State Commission.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before the State Legislature.

CHAPTER VI

MISCELLANEOUS

37. The Commissions shall ensure transparency while exercising their powers and discharging their functions.

Transparency in Commissions.

38. The Central Commission may carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Ordinance.

Directions by the Central Government.

VI-Ex. 33-5

Directions
by the
Central
Govern-
ment.

39. The State Commission may carry out such directions as may be issued to it from time to time by the State Government for the efficient administration of this Ordinance.

Members,
officers and
employees
of Central
Commission
to be public
servants.

40. The Chairperson, Members, officers and other employees of the Commissions shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 Of 1860.

Special
provision
relating
to the
Orissa
Electricity
Reform Act,
1995 and
Haryana
State
Electricity
Reforms
Act, 1997.

41. The provisions of this Ordinance in so far as they relate to the State Commission shall not apply to the Commissions established under the Orissa State Electricity Reform Act, 1995 or the Haryana State Electricity Reform Act, 1997.

Proceedings
before the
Com-
mission.

42. All proceedings before the Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

Protection
of action
taken in
good faith.

43. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Central or State Commission or any officer of Central or State Government or any Members, officer or other employees of the Central or State Commission for anything which is in good faith done or intended to be done under this Ordinance or the rules or regulations made thereunder.

Punishment
for non-
compliance
of orders
or directions
under the
Ordinance.

44. Whoever fails to comply with any order or direction given under this Ordinance, within such time as may be specified in the said order or direction or contravenes, or attempts to contravene or abets the contravention of any of the provisions of this Ordinance or any rules or regulations made thereunder shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to rupees one lakh or, with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to rupees four thousand for every day during which the failure continues after conviction of the first such offence.

Punishment
for non-
compliance
of directions
given by
a Commis-
sion.

45. (1) In case any complaint is filed before the Commission by any person or if the Commission is satisfied that any person has contravened any directions issued by the Commission under this Ordinance, rules or regulations made thereunder, the Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Ordinance, such person shall pay, by way of penalty, which shall not exceed rupees one lakh for each contravention and in case of a continuing failure with an

additional penalty which may extend to rupees six thousand for every day during which the failure continues after contravention for the first such direction.

(2) Any amount payable under this section, if not paid, may be recovered as if it were an arrear of land revenue.

2 of 1974.

46. The Commission or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.

Power of seizure.

47. (1) Where an offence under this Ordinance has been committed by a company, every person who at the time, the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offence by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Ordinance if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

48. No court shall take cognizance of an offence punishable under this Ordinance except upon a complaint, in writing, made by the Commission or by any other officer duly authorised by the Commission for this purpose.

Cognizance of offences.

68 of 1986.
33 of 1962.

49. Nothing contained in this Ordinance or any rule or regulations made thereunder or any instrument having effect by virtue of this Ordinance, rule or regulations shall have effect in so far as it is inconsistent with any other provisions of the Consumer Protection Act, 1986 or the Atomic Energy Act, 1962.

Inconsistency in laws.

50. The Central or the State Commission may, by general or special order in writing, delegate to any Members, officer of the Central or the State Commission or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Ordinance (except the power to settle disputes under Chapters III and V and the power to make regulations under sections 55 or 58) as it may deem necessary.

Delegation.

Amendment

51. From such date as the Central Government may, by notification, in the Official

of Act 34 of 1948. Gazette appoint, sub-section (2) of section 43A of the Electricity (Supply) Act, 1948 34 of 1948, shall be omitted.

Overriding effect.

52. Save as otherwise provided in section 49, the provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Ordinance.

Power to give directions.

53. The Central Government may give directions to a State Government as to the carrying out into execution of this Ordinance in the State.

Power of Central Government to make rules.

54. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salary and allowances payable to and the other conditions of service of the Chairperson and Members under sub-section (2) of section 6;

(b) the form, manner and the authority before whom oath of office and secrecy should be subscribed under sub-section (4) of section 6;

(c) the form in which and the time at which the Central Commission shall prepared its budget under section 31;

(d) the form in which annual statement of accounts to be prepared by the Central Commission under sub-section (1) of section 32;

(e) the form and time within which annual report should be filed under sub-section (1) of section 35;

(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

Power of Central Commission to make regulations.

55. (1) The Central Commission may by notification in the Official Gazette make regulations consistent with this Ordinance and the rules generally to carry out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power such regulations may provide for all or any of the following matters, namely:—

(a) the powers and duties of the Secretary under sub-section (1) of section 8;

(b) the salaries, allowances and other conditions of service of the Secretary, officers and other employees under sub-section (3) of section 8;

(c) the terms and conditions of the consultants appointed under sub-section (4) of section 8;

(d) the rules of procedure to be observed by the Central Commission under sub-section (1) of section 9;

(e) the manner in which chargers for energy may be determined under section 28.

56. Every rule made by the Central Government and every regulation made by the Central Commission under this Ordinance shall be laid, as soon as may be after it is made before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Rules and regulations to be laid before Parliament.

57. (1) The State Government may by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

Power of State Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:-

(a) the salary allowances and other conditions of service of the Members under sub-section (2) of section 19;

(b) the form and manner in which and the authority before whom the oath of office and secrecy should be subscribed under sub-section (4) of section 19;

(c) the form in which annual statement of accounts, to be prepared by the State Commission under sub-section (1) of section 34;

(d) the form in which and the time at which, the State Commission shall prepare its budget under section 33;

(f) the manner and the form in which annual report shall be furnished under sub-section (1) of section 35;

(g) any other matter which is to be, or may be prescribed or in respect of which provision is to be made by rules;

58. (1) The State Commission may, by notification in the Official Gazette make regulations consistent with this Ordinance and the rules made thereunder to carry out the purposes of this Ordinance.

Power of State Commission to make regulation.

(2) In particular and without prejudice to the generality of the foregoing power such regulations may provide for all or any of the following matters, namely:-

(a) the duties and powers of the Secretary under sub-section (1) of section 21;

(b) the salary, allowances and other conditions of service of the secretary, officers and other employees under sub-section (3) of section 21;

(c) the terms and conditions of consultants appointed under sub-section (4) of section 21;

(d) the manner in which charges for energy may be determined under sub-section (2) of section 29;

(e) any other matter which is to be, or may be specified.

Rules and
regulations
to be laid
before
State
Legislature.

59. Every rule made by the State Government and every regulation made by the State Commission under this Ordinance shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to
remove
difficul-
ties.

60. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Ordinance as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Ordinance.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Sd/-

K. R. NARAYANAN,
President.

Sd/-

RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR



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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 2nd November, 1998.

No. RP/80/98/Act-1/98/E.—The following Act of Parliament is
 re-published for general information :

GOVERNMENT OF INDIA
 MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
 (Legislative Department)
 New Delhi, the 29th March, 1998/Chaitra 8, 1920 (Saka)

The following Act of Parliament received the assent of the President on the
 29th March, 1998 and is hereby published for general information :

THE FINANCE ACT, 1998.

(Act No. 1 of 1998).

(29th March, 1998)

AN ACT

to continue the existing rates of income-tax for the financial year 1998-99.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as
 follows:—

1. (1) This Act may be called the Finance Act, 1998.
- (2) It shall come into force on the 1st day of April, 1998.

26 of 1997.

2. The provisions of section 2 of, and the First Schedule to, the Finance Act, 1997,
 shall apply in relation to income-tax for the assessment year or, as the case may be, the
 financial year commencing on the 1st day of April, 1998, as they apply in relation to
 income-tax for the assessment year or, as the case may be, the financial year commencing
 on the 1st day of April, 1997, with the following modifications, namely:—

(a) in section 2,—

(i) for the figures “1997”, wherever they occur, the figures “1998” shall
 be substituted;

(ii) in sub-section (1), the words and letter “and such tax shall be in-

Short title and
 commence-
 ment.

Income-tax.

creased in the cases to which Paragraph E of that Part applies, by a surcharge, calculated in the manner provided therein" shall be omitted;

(iii) in sub-section (3), the first and second provisos shall be omitted;

(b) in the First Schedule,—

(i) for Part I, the following Part shall be substituted, namely:—

"PART I

INCOME-TAX

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 40,000 | Nil; |
| (2) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000 | 10 per cent. of the amount by which the total income exceeds Rs. 40,000; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000 | Rs. 2,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,50,000 | Rs. 20,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000. |

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 plus 35 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 35 per cent.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

- I. In the case of a domestic company 35 per cent. of the total income;
- II. In the case of a company, other than a domestic company,—
- (i) on so much of the total income as consists of—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, 50 per cent.;
been approved by the Central Government

(ii) on the balance, if any, of the total 48 per cent.”;
income

(ii) in Part IV, in Rule 8,—

(A) for sub-rules (1) and (2), the following sub-rules shall be substituted, namely:—

“(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1998, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the

assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1998.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998, is a loss, then, for the purposes of sub-section (9) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the 1st day of April, 1998,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1999."

(B) for sub-rule (4), the following sub-rule shall be substituted, namely:—

"(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1990 (12 of 1990), or of the First Schedule to the Finance (No. 2) Act, 1991 (49 of 1991), or of the First Schedule to the Finance Act, 1992 (18 of 1992), or of the First Schedule to the Finance Act, 1993 (38 of 1993), or of the First Schedule to the Finance Act, 1994 (32 of 1994), or of the First Schedule to the Finance Act, 1995 (22 of 1995), or of the First Schedule to the Finance (No. 2) Act, 1996 (33 of 1996), or of the First Schedule to the Finance Act, 1997 (26 of 1997), shall be set off under sub-rule (1) or, as the case may be, sub-rule (2)."

DR. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 2nd November, 1998.

No. RP/44/98/ORD/5/98/E.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 21st April, 1998 is republished for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 21st April, 1998/Vaisakha 1, 1920 (Saka)

THE FINANCE (AMENDMENT) ORDINANCE, 1998

No. 5 of 1998

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance further to amend the Finance Act, 1979 and the Finance (No. 2) Act, 1996.

WHEREAS the Finance Acts (Amendment) Ordinance, 1997 was promulgated by the President on the 16th day of September, 1997 to further amend the Finance Act, 1979 and the Finance (No. 2) Act, 1996;

AND WHEREAS for giving continued effect to the provisions of the said Ordinance with certain modifications, the Finance (Second Amendment) Ordinance, 1997 was promulgated by the President on the 24th day of December, 1997;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the Finance (Second Amendment) Ordinance, 1997;

NOW THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

1. (1) This Ordinance may be called the Finance (Amendment) Ordinance, 1998.
- (2) It shall be deemed to have come into force on the 16th day of September, 1997.

Short title and commencement.

Amendment of
Act 21 of
1979.

2. In sub-section (1) of section 35 of the Finance Act, 1979, for clause (i), the following clause shall be substituted, namely:—

“(i) for every such journey to any place outside India other than a place in a neighbouring country—

(a) at the rate of seven hundred and fifty rupees on or after the 26th day of September, 1997 but before the 1st day of January, 1998;

(b) at the rate of five hundred rupees on or after the 1st day of January, 1998;”

Amendment of
Act 33 of 1996.

3. In section 68 of the Finance (No. 2) Act, 1996:—

(a) in sub-section (1), for the words “two per cent.”, the words “five per cent.” shall be substituted;

(b) to sub-section (1) as so amended, the following proviso shall be added, namely:—

“Provided that in the case of goods falling under heading Nos. 27.09 to 27.15 and heading No. 98.01 of the said First Schedule, the provisions of this sub-section shall have effect as if for the words “five per cent.”, the words “two per cent.” had been substituted.”

Repeal and
saving.

4. (1) The Finance (Second Amendment) Ordinance, 1997 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Finance Act, 1979 or the Finance (No. 2) Act, 1996 as amended by the said Ordinance, shall be deemed to have been done or taken under the Finance Act, 1979 or, as the case may be, the Finance (No. 2) Act, 1996, as amended by this Ordinance.

Ord. 24 of
1997.

21 of 1979.
33 of 1996.

K.R. NARAYANAN,
President.

RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 2nd November, 1998.

No. RP/79/98/Act-7/98/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 6th April, 1998/Chaitra 16, 1920 (Saka)

The following Act of Parliament received the assent of the President on the 6th April, 1998 and is hereby published for general information :

THE INCOME-TAX (AMENDMENT) ACT, 1998.

(Act No. 7 of 1998). (6th April, 1998)

AN ACT

to further amend the Income-tax Act, 1961.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Income-tax (Amendment) Act, 1998.

(2) Save as otherwise provided in this Act, it shall be deemed to have come into force on the 16th day of September, 1997.

2. In section 32 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), in sub-section (1), with effect from the 1st day of April, 1998,—

(a) before clause (ii), the following clause shall be inserted, namely:—

(d) in the case of assets of an undertaking engaged in generation or generation and distribution of power, such percentage on the actual cost thereof to the assessee as may be prescribed;

Short title and commencement.

Amendment of section 32.

43 of 1961.

(b) for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that where an asset referred to in clause (i) or clause (ii), as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business or profession for a period of less than one hundred and eighty days in that previous year, the deduction under this sub-section in respect of such asset shall be restricted to fifty per cent. of the amount calculated at the percentage prescribed for an asset under clause (i) or clause (ii), as the case may be."

Amendment of
section 80-IA.

3. In section 80-IA of the Income-tax Act,—

(a) in sub-section (1), after the words "commercial production of mineral oil in the North-Eastern Region", the words; letters and figures "or in any part of India on or after the 1st day of April, 1997" shall be inserted with effect from the 1st day of April, 1998;

(b) in sub-section (2), in clause (iv),—

(i) in sub-clause (b), the following proviso shall be inserted with effect from the 1st day of April, 1998, namely:—

"Provided that in the case of an industrial undertaking set up in any part of India for the generation, or generation and distribution, of power, the period ending shall have effect as if for the figures "1998", the figures "2000" had been substituted;"

(ii) in sub-clause (c), after the words "specify in this behalf," the words and letters "as an industrially backward district of Category A or an industrially backward district of Category B and" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1995;

(c) in sub-section (4E), after the words "North-Eastern Region", the words, letters and figures "or in any part of India on or after the 1st day of April, 1997" shall be inserted with effect from the 1st day of April, 1998;

(d) in sub-section (5), in clause (i), in sub-clause (b), after the proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1995, namely:—

"Provided further that in the case of an industrial undertaking located in an industrially backward district of Category B, the provisions of this clause shall have effect as if for the words "five assessment years", the words "three assessment years" had been substituted;"

(e) in sub-section (6),—

(A) for clause (i), the following clauses shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1995, namely:—

"(i) ten in the case of an assessee, not being a co-operative society, deriving profits and gains from an industrial undertaking specified in sub-clause (a) or sub-clause (b) or sub-clause (d) of clause (iv) of sub-section (2) or located in an industrially backward district of Category A specified in sub-clause (c) of clause (iv) of that sub-section;

(ii) eight in the case of an assessee deriving profits and gains from an industrial undertaking located in an industrially backward district of Category B specified in sub-clause (c) of clause (iv) of sub-section (2) and such an undertaking is not covered under clauses (i) and (ii) of this sub-section;"

(B) in clause (iv), the following proviso shall be inserted with effect from the 1st day of April, 1998, namely:—

‘Provided that where the assessee begins operating and maintaining any infrastructure facility referred to in sub-clause (ii) of clause (ca) of sub-section (12), the provisions of this clause shall have effect as if for the word “twelve”, the word “twenty” had been substituted;’

(C) in clause (viii), after the words “commercial production of mineral oil in the North-Eastern Region”, the words, letters and figures “and other parts of the country on or after the 1st day of April, 1997” shall be inserted with effect from the 1st day of April, 1998;

(f) after sub-section (7), the following sub-section shall be inserted with effect from the 1st day of April, 1998, namely:—

“(7A) Notwithstanding anything contained in sub-section (4A), where housing or other activities are an integral part of the highway project and the profits of which are computed on such basis and manner as may be prescribed, such profit shall not be liable to tax where the profit has been transferred to a special reserve account and the same is actually utilised for the highway project excluding housing and other activities before the expiry of three years following the year in which such amount was transferred to the reserve account; and the amount remaining unutilised shall be chargeable to tax as income of the year in which transfer to reserve account took place.”;

(g) in sub-section (12), for clause (ca), the following clause shall be substituted with effect from the 1st day of April, 1998, namely:—

‘(ca) “infrastructure facility” means—

(i) a road, bridge, airport, port, rail system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette;

(ii) a highway project including housing or other activities being an integral part of the highway project; and

(iii) a water supply project, irrigation project, sanitation and sewerage system;’

Ord.
28 of 1997.

4. (1) The Income-tax (Amendment) Second Ordinance, 1997, is hereby repealed.

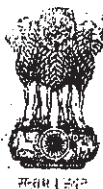
Repeal and
saving.

(2) Notwithstanding such repeal, anything done or any action taken under the Income-tax Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the Income-tax Act, as amended by this Act.

DR. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 2nd November, 1998.

No. RP/86/98/ORD-16/98/E.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 29th August, 1998 is republished for general information :

GOVERNMENT OF INDIA**MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS**

(Legislative Department)

New Delhi, the 29th August, 1998/Bhadra 7, 1920 (Saka)

THE PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA)
AMENDMENT ORDINANCE, 1998

No. 16 of 1998

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance further to amend the Prasara Bharati (Broadcasting Corporation of India) Act, 1990.

WHEREAS the Prasara Bharati (Broadcasting Corporation of India) Amendment Bill, 1998 has been passed by the House of the People and is pending in the Council of States;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the said Bill and to make certain other amendments to the Prasara Bharati (Broadcasting Corporation of India) Act, 1990;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Prasara Bharati (Broadcasting Corporation of India) Amendment Ordinance, 1998.

Short title
and com-
mencement.

(2) The provisions of section 5 shall come into force at once and remaining provisions of this Ordinance shall be deemed to have come into force on the 6th day of May, 1998.

Substitution
of new
section for
section 2.

2. For section 2 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 25 of 1990.
(hereinafter referred to as the principal Act), the following section shall be substituted,
namely:—

Definitions.

"2. In this Act, unless the context otherwise requires,—

(a) "Akashvani" means the offices, stations and other establishments, by whatever name called, which, immediately before the appointed day, formed part of or were under the Directorate-General, All India Radio of the Union Ministry of Information and Broadcasting;

(b) "appointed day" means the date appointed under section 3;

(c) "broadcasting" means the dissemination of any form of communication like signs, signals, writing, pictures, images and sounds of all kinds by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations and all its grammatical variations and cognate expressions shall be construed accordingly;

(d) "Board" means the Prasar Bharati Board;

(e) "Broadcasting Council" means the Council established under section 14;

(f) "Chairman" means the Chairman of the Corporation appointed under section 4;

(g) "Corporation" means the Prasar Bharati (Broadcasting Corporation of India) established under section 3;

(h) "Doordarshan" means the offices, kendras and other establishments, by whatever name called, which, immediately before the appointed day, formed part of or were under the Directorate-General, Doordarshan of the Union Ministry of Information and Broadcasting;

(i) "elected Member" means a Member elected under section 3;

(j) "Executive Member" means the Executive Member appointed under section 4;

(k) "kendra" means any telecasting centre with studios or transmitters or both and includes a relay station;

(l) "Member" means a Member of the Board;

(m) "Member (Finance)" means the Member (Finance) appointed under section 4;

(n) "Member (Personnel)" means the Member (Personnel) appointed under section 4;

(o) "Nominated Member" means the Member nominated by the Union Ministry of Information and Broadcasting under section 3;

(p) "Non-lapsable Fund" means the Fund created from the commercial revenues of Akashvani and Doordarshan to meet expenditure on certain schemes;

(q) "notification" means a notification published in the Official Gazette;

(r) "Part-time Member" means a Part-time Member of the Board appointed under section 4, but does not include an *ex officio* Member, the Nominated Member or an elected Member;

(s) "prescribed" means prescribed by rules made under this Act;

(t) "Recruitment Board" means a board established under sub-section (1) of section 10;

(u) "regulations" means regulations made by the Corporation under this Act;

(v) "station" means any broadcasting station with studios or transmitters or both and includes a relay station;

(w) "Whole-time Member" means the Executive Member, Member (Finance) or Member (Personnel);

(x) "year" means the financial year."

3. In section 3 of the principal Act, for sub-sections (5) and (6), the following sub-sections shall be substituted, namely:—

Amendment
of section
3.

"(5) The Board shall consist of—

(a) a Chairman;

(b) one Executive Member;

(c) one Member (Finance);

(d) one Member (Personnel);

(e) six Part-time Members;

(f) Director-General (Akashvani), *ex officio*;

(g) Director-General (Doordarshan), *ex officio*;

(h) one representative of the Union Ministry of Information and Broadcasting, to be nominated by that Ministry; and

(i) two representatives of the employees of the Corporation, of whom one shall be elected by the engineering staff from amongst themselves and one shall be elected by the other employees from amongst themselves.

(6) The Corporation may appoint such committees as may be necessary for the efficient performance, exercise and discharge of its functions, powers and duties:

Provided that all or a majority of the members of each committee shall be Members and a member of any such committee who is not a Member shall have only the right to attend meetings of the committee and take part in the proceedings thereof, but shall not have the right to vote."

Amendment
of section
4.

4. In section 4 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The Chairman and the Part-time Members shall be persons of eminence in public life; the Executive Member shall be a person having special knowledge or practical experience in respect of such matters as administration, management, broadcasting, education, literature, culture, arts, music, dramatics or journalism; the Member (Finance) shall be a person having special knowledge or practical experience in respect of financial matters and the Member (Personnel) shall be a person having special knowledge or practical experience in respect of personnel management and administration."

Substitution
of new
section for
section 6.

5. For section 6 of the principal Act, the following section shall be substituted, namely:—

Term of
office,
conditions
of service,
etc., of
Chairman
and other
Members.

"6. (1) The Chairman shall be a Part-time Member and shall hold office for a term of six years from the date on which he enters upon his office.

(2) The Executive Member, the Member (Finance) and the Member (Personnel) shall be Whole-time Members and every such Member shall hold office for a term of six years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier:

Provided that any person holding office as a Whole-time Member immediately before the commencement of the Prasar Bharati (Broadcasting Corporation of India) Amendment Ordinance, 1998, shall, in so far as his appointment is inconsistent with the provisions of this sub-section, cease to hold office on such commencement as such Whole-time Member and shall not be entitled to any compensation because of his ceasing to hold such office.

(3) The term of office of Part-time Members shall be six years, but one-third of such Members shall retire on the expiration of every second year:

Provided that every Part-time Member holding office as such, immediately before the commencement of the Prasar Bharati (Broadcasting Corporation of India) Amendment Ordinance, 1998, shall, notwithstanding anything contained in this sub-section as amended by the Prasar Bharati (Broadcasting Corporation of India) Amendment Second Ordinance, 1997, retire in accordance with the provisions of sub-section (5):

Provided further that no such Part-time Member shall be entitled to any compensation for curtailment of the term of his office under sub-section (5).

(4) The term of office of an elected Member shall be two years or till he ceases to be an employee of the Corporation; whichever is earlier.

(5) As soon as may be after the establishment of the Corporation, the President of India may, by order, make such provision as he thinks fit for curtailing the term of office of some of the Part-time Members then appointed in order that one-third of the Members holding office as such Part-time Members shall retire in every second year thereafter.

Ord. 29 of
1997.

(6) Where before the expiry of the term of office of a person holding the office of Chairman, or any other Member, a vacancy arises, for any reason whatsoever, such vacancy shall be deemed to be a casual vacancy and the person appointed or elected to fill such vacancy shall hold office for the unexpired period of the term for which his predecessor in office would have held office if such vacancy had not arisen.

(7) In the event of the occurrence of any vacancy by reason of death, resignation or otherwise in the office of —

(a) the Executive Member, senior most among the members referred to in clauses (c) and (d) of sub-section (5) of section 3, failing which senior most among the Members referred to in clauses (f) and (g) of that sub-section, shall perform the duties of the Executive Member until the date on which a new Executive Member appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office;

(b) any other Whole-time Member, the Executive Member shall perform the duties of such Whole-time Member until the date on which a new Whole-time Member appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

(8) The Central Government shall, in the case of occurrence of vacancy by reason of death, resignation or otherwise of any Whole-time Member, within two weeks from the date of occurrence of such vacancy, make a reference to the committee referred to in sub-section (1) of section 4.

(9) The Whole-time Members shall be the employees of the Corporation and as such shall be entitled to such salaries and allowances and shall be subject to such conditions of service in respect of leave, pension (if any), provident fund and other matters as may be prescribed:

Provided that the salaries and allowances and the conditions of service shall not be varied to their disadvantage after their appointment.

(10) The Chairman and Part-time Members shall be entitled to such allowances as may be prescribed."

6. In section 7 of the principal Act,—

Amendment
of section
7.

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Notwithstanding anything contained in sub-section (1), the President may, by order, remove the Chairman or any Whole-time Member from his office if such Chairman or such Whole-time Member—

(a) ceases to be a citizen of India; or

(b) is adjudged an insolvent; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is convicted of any offence involving moral turpitude; or

(e) is, in the opinion of the President, unfit to continue in office by reason of infirmity of body or mind:

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Provided that the President may, by order, remove any Part-time Member from his office if he is adjudged an insolvent or is convicted of any offence involving moral turpitude or where he is, in the opinion of the President, unfit to continue in office by reason of infirmity of body or mind.”;

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) If the Chairman or any Whole-time Member, except any *ex officio* Member, the Nominated Member or any elected Member, is, or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Corporation or the Government of India or the Government of a State or, participates in any way in the profit thereof, or in any benefit or emolument arising therefrom than as a member, and in common with other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.”.

Amendment
of section
9.

7. In section 9 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Subject to such control, restrictions and conditions as may be prescribed, the Corporation may appoint, after consultation with the Recruitment Board, the Director-General (Akashvani), the Director-General (Doordarshan) and such other officers and employees as may be necessary.”.

Amendment
of section
10.

8. In section 10 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Corporation shall, as soon as may be, after the appointed day and in such manner and subject to such conditions and restrictions as may be prescribed, establish for the purposes of section 9, one or more Recruitment Boards consisting wholly of persons other than the Members, officers and other employees of the Corporation:

Provided that for the purposes of appointment to the posts carrying scales of pay which are not less than that of a Joint Secretary to the Central Government, the Recruitment Board shall consist of the Chairman, other Members, the *ex officio* Members, the Nominated Member and the elected Members.”.

Amendment
of section
11.

9. In section 11 of the principal Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The provisions of sub-section (1) shall also apply to the members of the Indian Information Service, the Central Secretariat Service or any other service or to persons borne on cadres outside Akashvani and Doordarshan who have been working in Akashvani or Doordarshan immediately before the appointed day:

Provided that where any such member intimates, within the time specified in sub-section (1), his intention of not becoming an employee of the Corporation but to continue on deputation, he may be allowed to continue on deputation in accordance with such terms and conditions as may be prescribed.”;

(b) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Every officer or other employee transferred by an order made under sub-section (1) shall, within six months from the date of transfer, exercise his option, in writing, to be governed—

(a) by the scale of pay applicable to the post held by him in the Akashvani or Doordarshan immediately before the date of transfer or by the scale applicable to the post under the Corporation to which he is transferred;

(b) by the leave, provident fund, retirement or other terminal benefits admissible to employees of the Central Government in accordance with the rules or orders of the Central Government, as amended from time to time, or the leave, provident fund or other terminal benefits admissible to the employees of the Corporation under the regulations,

and such option once exercised under this Act shall be final:

Provided that the option exercised under clause (a) by an officer or other employee shall be applicable only in respect of the post under the Corporation to which such officer or other employee is transferred and on appointment to a higher post under the Corporation he shall be eligible only for the scale of pay applicable to such higher post:

Provided further that if immediately before the date of his transfer any such officer or other employee is officiating in a higher post under the Government either in a leave vacancy or any other vacancy of a specified duration, his pay on transfer shall be protected for the unexpired period of such vacancy and thereafter he shall be entitled to the scale of pay applicable to the post under the Government to which he would have reverted or to the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt:

Provided also that when an officer or other employee serving in the Union Ministry of Information and Broadcasting or in any of its attached or subordinate offices is promoted to officiate in a higher post in the Ministry or office subsequent to the transfer to the Corporation of any other officer or employee senior to him in that Ministry or office before such transfer, the officer or other employee who is promoted to officiate in such higher post shall, on transfer to the Corporation, be entitled only to the scale of pay applicable to the post he would have held but for such promotion or the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt."

10. In section 12 of the principal Act,—

Amendment
of section
12.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Subject to the provisions of this Act, it shall be the primary duty of the Corporation to organise and conduct public broadcasting services to inform, educate and entertain the public and to ensure a balanced development of broadcasting on radio and television.

Explanation.—For the removal of doubts, it is hereby declared that the provisions of this section shall be in addition to, and not in derogation of, the provisions of the Indian Telegraph Act, 1885."

13 of 1885.

(b) in sub-section (2), for clause (n), the following clause shall be substituted, namely:—

"(n) providing comprehensive broadcast coverage through the choice of appropriate technology and the best utilisation of the broadcast frequencies available and ensuring high quality reception;"

(c) in sub-section (3), for clause (c), the following clause shall be substituted, namely:—

"(c) to negotiate for purchase of, or otherwise acquire, programmes and rights or privileges in respect of sports and other events, films, serials, occasions, meetings, functions or incidents of public interest, for broadcasting and to establish procedures for the allocation of such programmes, rights or privileges to the services";

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) For the purposes of ensuring that adequate time is made available for the promotion of the objectives set out in this section, the Central Government shall have the power to determine the maximum limit of broadcast time in respect of the advertisement.";

(e) for sub-section (7), the following sub-section shall be substituted, namely:—

"(7) The Corporation shall have power to determine and levy fees and other service charges for or in respect of the advertisements and such programmes as may be specified by regulations;

Provided that the fees and other service charges levied and collected under this sub-section shall not exceed such limits as may be determined by the Central Government, from time to time."

Insertion of
new
sections 13
to 15.

11. After section 12 of the principal Act, the following sections shall be inserted, namely:—

Parlia-
mentary
Committee.

"13. (1) There shall be constituted a Committee consisting of twenty-two Members of Parliament, of whom fifteen from the House of the People to be elected by the Members thereof and seven from the Council of States to be elected by the Members thereof in accordance with the system of proportional representation by means of the single transferable vote, to oversee that the Corporation discharges its functions in accordance with the provisions of this Act and, in particular, the objectives set out in section 12 and submit a report thereon to Parliament.

(2) The Committee shall function in accordance with such rules as may be made by the Speaker of the House of the People.

14. (1) There shall be established, by notification, as soon as may be after the appointed day, a Council, to be known as the Broadcasting Council, to receive and consider complaints referred to in section 15 and to advise the Corporation in the discharge of its functions in accordance with the objectives set out in section 12.

(2) The Broadcasting Council shall consist of—

(i) a President and ten other members to be appointed by the President of India from amongst persons of eminence in public life;

(ii) four Members of Parliament, of whom two from the House of the People to be nominated by the Speaker thereof and two from the Council of States to be nominated by the Chairman thereof.

(3) The President of the Broadcasting Council shall be a whole-time member and

Establish-
ment of
Broad-
casting
Council,
term of
office and
removal,
etc., of
members
thereof.

every other member shall be a part-time member and the President or the part-time member shall hold office as such for a term of three years from the date on which he enters upon his office.

(4) The Broadcasting Council may constitute such number of Regional Councils as it may deem necessary to aid and assist the Council in the discharge of its functions.

(5) The President of the Broadcasting Council shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension, (if any), provident fund and other matters as may be prescribed:

Provided that the salary and allowances and the conditions of service shall not be varied to the disadvantage of the President of the Broadcasting Council after his appointment.

(6) The other members of the Broadcasting Council and the members of the Regional Councils constituted under sub-section (4) shall be entitled to such allowances as may be prescribed.

15. (1) The Broadcasting Council shall receive and consider complaints from--

(i) any person or group of persons alleging that a certain programme or broadcast or the functioning of the Corporation in specific cases or in general is not in accordance with the objectives for which the Corporation is established;

(ii) any person (other than an officer or employee of the Corporation) claiming himself to have been treated unjustly or unfairly in any manner (including unwarranted invasion of privacy, misrepresentation, distortion or lack of objectivity) in connection with any programme broadcast by the Corporation.

(2) A complaint under sub-section (1) shall be made in such manner and within such period as may be specified by regulations.

(3) The Broadcasting Council shall follow such procedure as it thinks fit for the disposal of complaints received by it.

(4) If the complaint is found to be justified either wholly or in part, the Broadcasting Council shall advise the Executive Member to take appropriate action.

(5) If the Executive Member is unable to accept the recommendation of the Broadcasting Council, he shall place such recommendation before the Board for its decision thereon.

(6) If the Board is also unable to accept the recommendation of the Broadcasting Council, it shall record its reasons therefor and inform the Broadcasting Council accordingly.

(7) Notwithstanding anything contained in sub-sections (5) and (6), where the Broadcasting Council deems it appropriate, it may, for reasons to be recorded in writing, require the Corporation to broadcast its recommendations with respect to a complaint in such manner as the Council may deem fit."

12. In section 16 of the principal Act, for clause (a), the following clause shall be substituted, namely:—

"(a) all property and assets (including the Non-lapsable Fund) which immediately

Jurisdiction
of, and the
procedure
to be
followed by,
Broad-
casting
Council.

Amendment
of section
16.

before that day vested in the Central Government for the purpose of Akashvani or Doordarshan or both shall stand transferred to the Corporation on such terms and conditions as may be determined by the Central Government and the book value of all such property and assets shall be treated as the capital provided by the Central Government to the Corporation."

Substitution
of new
section for
section 25.

13. For section 25 of the principal Act, the following section shall be substituted, namely:—

Report to
Parliament
in certain
matters and
recommen-
dations as
to action
against the
Board.

"25. (1) Where the Board persistently makes default in complying with any directions issued under section 23 or fails to supply the information required under section 24, the Central Government may prepare a report thereof and lay it before each House of Parliament for any recommendation thereof as to any action (including supersession of the Board) which may be taken against the Board.

(2) On the recommendation of Parliament, the President may by notification supersede the Board for such period not exceeding six months, as may be specified in the notification:

Provided that before issuing the notification under this sub-section, the President shall give a reasonable opportunity to the Board to show cause as to why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(3) Upon the publication of the notification under sub-section (2),—

(a) all the Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall, until the Board is reconstituted under this Act, be exercised and discharged by such person or persons as the President may direct.

(4) On the expiration of the period of supersession specified in the notification issued under sub-section (2), the President may reconstitute the Board by fresh appointments, and in such a case any person who had vacated his office under clause (a) of sub-section (3) shall not be disqualified for appointment:

Provided that the President may, at any time before the expiration of the period of supersession, take action under this sub-section.

(5) The Central Government shall cause the notification issued under sub-section (2) and a full report of the action taken under this section to be laid before each House of Parliament."

Insertion of
new section
26.

14. After section 25 of the principal Act, the following section shall be inserted, namely:—

Office of
member not
to disqualify
a Member of
Parliament.

"26. It is hereby declared that the office of the member of the Broadcasting Council or of the Committee constituted under section 13 shall not disqualify its holder for being chosen as, or for being, a Member of either House of Parliament."

15. For sections 27 and 28 of the principal Act, the following sections shall be substituted, namely:—

Substitution
of new
sections
for sections
27 and 28.

45 of 1860.

"27. The Chairman and every other Member, officer or other employee of the Corporation and every member of a Committee thereof, the President and every member of the Broadcasting Council or every member of a Regional Council or a Recruitment Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Chairman,
Members,
etc., to be
public
servants.

28. No suit or other legal proceeding shall lie against the Corporation, the Chairman or any Member or officer or other employee thereof or the President or a member of the Broadcasting Council or a member of a Regional Council or a Recruitment Board for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or regulations made thereunder."

Protection
of action
taken in
good faith.

16. For section 31 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 31.

"31. (1) The Corporation shall prepare once in every calendar year, in such form and within such time as may be prescribed, an annual report giving a full account of its activities (including the recommendations and suggestions made by the Broadcasting Council and the action taken thereon) during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Annual
report.

(2) The Broadcasting Council shall prepare once in every calendar year, in such form and within such time as may be prescribed, an annual report giving a full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before each House of Parliament."

17. In section 32 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment
of section
32.

"(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salaries and allowances and conditions of service in respect of leave, pension (if any), provident fund and other matters in relation to the Whole-time Members under sub-section (9) of section 6;

(b) the allowances payable to the Chairman and Part-time Members under sub-section (10) of section 6;

(c) the control, restrictions and conditions subject to which the Corporation may appoint officers and other employees under sub-section (1) of section 9;

(d) the manner in which and the conditions and restrictions subject to which a Recruitment Board may be established under sub-section (1) of section 10;

(e) the qualifications and other conditions of service of the members of a Recruitment Board and their period of office under sub-section (2) of section 10;

(f) the terms and conditions in accordance with which the deputation may be regulated under sub-section (2) of section 11;

(g) the salary and allowances and conditions of service in respect of leave, pension (if any), provident fund and other matters in relation to the President of the Broadcasting Council under sub-section (5) of section 14;

(h) the allowances payable to other members of the Broadcasting Council and the members of the Regional Councils under sub-section (6) of section 14;

(i) the manner in which the Corporation may invest its moneys under section 19;

(j) the form and manner in which the annual statement of accounts shall be prepared under sub-section (1) of section 21;

(k) the form in which and the time within which the Corporation and the Broadcasting Council shall prepare their annual report under section 31;

(l) any other matter which is required to be, or may be, prescribed."

Amendment
of section
33.

18. In section 33 of the principal Act, in sub-section (2),—

(i) after clause (g), the following clause shall be inserted, namely:—

"(h) the manner in which and the period within which complaints may be made under sub-section (2) of section 15;"

(ii) clause (h) shall be re-lettered as clause (i).

K.R. NARAYANAN,

President.

RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 14th November, 1998.

No. RP/87/98/ORD/15/98/E.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 25th August, 1998 is republished for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 25th August, 1998/Bhadra 3, 1920 (Saka)

THE CENTRAL VIGILANCE COMMISSION
ORDINANCE, 1998

No. 15 of 1998

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance to provide for the constitution of a Central Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I
PRELIMINARY

1. (1) This Ordinance may be called the Central Vigilance Commission Ordinance, 1998.

Short title
and com-
mencement.

(2) It shall come into force at once.

Definitions. 2. In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means the date on which the Commission is constituted under sub-section (1) of section 3;

(b) "Central Vigilance Commissioner" means the Central Vigilance Commissioner appointed under sub-section (1) of section 4;

(c) "Commission" means the Central Vigilance Commission constituted under sub-section (1) of section 3;

(d) "Delhi Special Police Establishment" means the Delhi Special Police Establishment constituted under sub-section (1) of section 2 of the Delhi Special Police Establishment Act, 1946;

25 of 1946.

(e) "prescribed" means prescribed by rules made under this Ordinance;

(f) "Vigilance Commissioner" means a Vigilance Commissioner appointed under sub-section (1) of section 4.

CHAPTER II THE CENTRAL VIGILANCE COMMISSION

Constitution
of Central
Vigilance
Com-
mission.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted a body to be known as the Central Vigilance Commission to exercise the powers conferred upon, and to perform the functions assigned to, it under this Ordinance.

(2) The Commission shall consist of—

- | | |
|---|-----------------------------|
| (a) a Central Vigilance Commissioner— | Chairperson; |
| (b) not more than three Vigilance Commissioners — | Members; |
| (c) Secretary to the Government of India in-charge of the Ministry of Personnel — | Member, <i>ex officio</i> . |

(3) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed from amongst persons who are or have been in an All India Service or in any civil service of the Union or in a civil post under the Union having knowledge and experience in the matters relating to vigilance, policy making and administration including police administration.

(4) The Central Government shall appoint a Secretary to the Commission on such terms and conditions as it deems fit to exercise such powers and discharge such duties as the Commission may by regulations specify in this behalf.

(5) The headquarters of the Commission shall be at New Delhi.

4. (1) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed by the President by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of—

Appointment
of Central
Vigilance
Com-
missioner
and Vigilance
Com-
missioners.

- | | | |
|--|---|--------------|
| (a) the Prime Minister | — | Chairperson; |
| (b) the Minister of Home Affairs | — | Member; |
| (c) the Leader of the Opposition
in the House of the People | — | Member. |

(2) No appointment of a Central Vigilance Commissioner or a Vigilance Commissioner shall be invalid merely by reason of any vacancy in the Committee.

5. (1) Subject to the provisions of sub-sections (3) and (4), the Central Vigilance Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier.

Terms and other conditions of service of Central Vigilance Commissioner.

(2) Subject to the provisions of sub-sections (3) and (4), every Vigilance Commissioner shall hold office for a term of three years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier.

(3) The Central Vigilance Commissioner or a Vigilance Commissioner shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Schedule.

(4) The Central Vigilance Commissioner or a Vigilance Commissioner may, by writing under his hand addressed to the President, resign his office.

(5) The Central Vigilance Commissioner or a Vigilance Commissioner may be removed from his office in the manner provided in section 6.

(6) On ceasing to hold office, the Central Vigilance Commissioner and every other Vigilance Commissioner shall be ineligible for—

(a) reappointment in the Commission;

(b) further employment to any office of profit under the Government of India or the Government of a State.

(7) The salary and allowances payable to and the other conditions of service of—

(a) the Central Vigilance Commissioner shall be the same as those of the Chairman of the Union Public Service Commission;

(b) the Vigilance Commissioner shall be the same as those of a Member of the Union Public Service Commission:

Provided that if the Central Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Central Vigilance Commissioner or any Vigilance Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that the salary, allowances and pension payable to, and the other conditions of service of, the Central Vigilance Commissioner or any Vigilance Commissioner shall not be varied to his disadvantage after his appointment.

Removal of
Central
Vigilance
Com-
missioner
and
Vigilance
Com-
missioner.

6. (1) Subject to the provisions of sub-section (3), the Central Vigilance Commissioner or any Vigilance Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Central Vigilance Commissioner or any Vigilance Commissioner, as the case may be, ought on such ground be removed.

(2) The President may suspend from office the Central Vigilance Commissioner or any Vigilance Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything in sub-section (1), the President may by order remove from office the Central Vigilance Commissioner or any Vigilance Commissioner if the Central Vigilance Commissioner or such Vigilance Commissioner, as the case may be,—

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Central Vigilance Commissioner or a Vigilance Commissioner.

(4) If the Central Vigilance Commissioner or any Vigilance Commissioner is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

Power to
make rules
by Central
Government
for staff.

7. The Central Government may by rules make provision with respect to the number of members of the staff of the Commission and their conditions of service.

CHAPTER III

FUNCTIONS AND POWERS OF THE CENTRAL VIGILANCE COMMISSION

Functions
and powers
of Central
Vigilance
Com-
mission.

8. (1) The functions and powers of the Commission shall be to—

(a) exercise superintendence over the functioning of the Delhi Special Police Establishment insofar as it relates to the investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988;

49 of 1988.

(b) inquire or cause an inquiry or investigation to be made on a reference made by the Central Government wherein it is alleged that a public servant being an employee of the Central Government or a corporation established by or under any Central Act, Government company, society and any local authority owned or

49 of 1988.

controlled by that Government, has committed an offence under the Prevention of Corruption Act, 1988;

49 of 1988.

(c) inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to such category of officials specified in sub-section (2) wherein it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988;

49 of 1988.

25 of 1946.

(d) grant approval or otherwise for the conduct of investigation into allegations of corruption under the Prevention of Corruption Act, 1988 against the persons mentioned in section 6A of the Delhi Special Police Establishment Act, 1946 in accordance with the regulations made in this behalf;

49 of 1988.

(e) review the progress of investigations conducted by the Delhi Special Police Establishment into offences alleged to have been committed under the Prevention of Corruption Act, 1988;

49 of 1988.

(f) review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988;

(g) tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise;

(h) exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

(2) The persons referred to in clause (c) of sub-section (1) are as follows:—

(a) Group 'A' officers of the Central Government;

(b) such level of officers of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf:

Provided that till such time a notification is issued under this clause, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (c) of sub-section (1).

9. (1) The proceedings of the Commission shall be conducted at its headquarters.

Proceedings
of Com-
mission.

(2) The Commission shall observe such rules of procedure in regard to the transaction of the business as may be provided by regulations.

(3) The Central Vigilance Commissioner, or, if for any reason he is unable to attend any meeting of the Commission, the seniormost Vigilance Commissioner present at the meeting, shall preside at the meeting.

(4) No act or proceeding of the Commission shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Commission; or

(b) any defect in the appointment of a person acting as the Central Vigilance Commissioner or as a Vigilance Commissioner; or

(c) any irregularity in the procedure of the Commission not affecting the merits of the case.

Vigilance Commissioner to act as Central Vigilance Commissioner in certain circumstances.

10. (1) In the event of the occurrence of any vacancy in the office of the Central Vigilance Commissioner by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Vigilance Commissioners to act as the Central Vigilance Commissioner until the appointment of a new Central Vigilance Commissioner to fill such vacancy. —

(2) When the Central Vigilance Commissioner is unable to discharge his functions owing to absence on leave or otherwise, such one of the Vigilance Commissioners as the President may, by notification, authorise in this behalf, shall discharge the functions of the Central Vigilance Commissioner until the date on which the Central Vigilance Commissioner resumes his duties.

Power relating to inquiries.

11. The Commission shall, while conducting any inquiry referred to in clauses (b) and (c) of sub-section (1) of section 8, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 and in particular, in respect of the following matters, namely:—

5 of 1908

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) any other matter which may be prescribed.

Proceedings before Commission to be judicial proceedings.

12. The Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 and every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

2 of 1974.

45 of 1860.

CHAPTER IV EXPENSES AND ANNUAL REPORT

Expenses of Commission to be charged on the Consolidated Fund of India.

13. The expenses of the Commission, including any salaries, allowances and pensions payable to or in respect of the Central Vigilance Commissioner, the Vigilance Commissioners, Secretary and the staff of the Commission, shall be charged on the Consolidated Fund of India.

14. (1) It shall be the duty of the Commission to present annually to the President a report as to the work done by the Commission. Annual report.

(2) The report referred to in sub-section (1) shall contain a separate part on the functioning of the Delhi Special Police Establishment insofar as it relates to sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1946. 25 of 1946.

(3) On receipt of such report, the President shall cause the same to be laid before each House of Parliament.

CHAPTER V MISCELLANEOUS

15. No suit, prosecution or other legal proceeding shall lie against the Commission, the Central Vigilance Commissioner, any Vigilance Commissioner, the *ex officio* Member, the Secretary or against any staff of the Commission in respect of anything which is in good faith done or intended to be done under this Ordinance.

Protection of action taken in good faith.

16. The Central Vigilance Commissioner, every Vigilance Commissioner, the Secretary and every staff of the Commission shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Central Vigilance Commissioner, Vigilance Commissioner and staff to be public servants.

17. (1) The report of the inquiry undertaken by any agency on a reference made by the Commission shall be forwarded to the Commission.

Report of any inquiry made on reference by Commission to be forwarded to that Commission

(2) The Commission shall on receipt of such report and after taking into consideration any other factors relevant thereto, advise the Central Government and corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government, as the case may be, as to the further course of action.

(3) The Central Government and the corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government, as the case may be, shall consider the advice of the Commission and take appropriate action:

Provided that where the Central Government, any corporation established by or under any Central Act, Government company, society or local authority owned or controlled by the Central Government, as the case may be, does not agree with the advice of the Commission, it may for reasons to be recorded in writing communicate the same to the Commission.

18. The Commission may call for reports, returns and statements from the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government so as to enable it to exercise general supervision over the vigilance and anti-corruption work

Power to call for information.

in that Government and in the said corporations, Government companies, societies and local authorities.

Power to
give
directions.

19. The Commission shall from time to time give directions to the Delhi Special Police Establishment for the purpose of discharging the responsibility entrusted to it under sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1946: 25 of 1946.

Provided that the Commission shall not exercise its powers in such a manner so as to require the Delhi Special Police Establishment to investigate or dispose of a particular case only in a particular manner.

Power to
make
rules.

20. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for—

(a) the number of members of the staff and their conditions of service under section 7; and

(b) any other power of the civil court to be prescribed under clause (f) of section 11;

(c) any other matter which may be prescribed.

Power to
make
regulations.

21. (1) The Commission may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with this Ordinance and the rules made thereunder to provide for all matters for which provision is expedient for the purposes of giving effect to the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

(a) the duties and the powers of the secretary under sub-section (4) of section 3;

(b) the grant of approval for the conduct of investigation under clause (d) of sub-section (1) of section 8;

(c) the procedure to be followed by the Commission under sub-section (2) of section 9.

Notification,
rule, etc.,
to be laid
before
Parliament.

22. Every notification issued and every rule made by the Central Government and every regulation made by the Commission under this Ordinance shall be laid, as soon as may be after it is issued or made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or the rule or regulation, or both Houses agree that the notification or the rule or regulation should not be made, the notification or the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule or regulation.

23. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, not inconsistent with the provisions of this Ordinance, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Ordinance.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before each House of Parliament.

24. With effect from the appointed day the Central Vigilance Commission set up by the Resolution of the Government of India in the Ministry of Home Affairs No.24/7/64-AVD dated the 11th February, 1964 (hereafter referred to in this section as the existing Vigilance Commission) shall, insofar as its functions are not inconsistent with the provisions of this Ordinance, continue to discharge the said functions and, -

Provisions relating to existing Vigilance Commission.

(a) all actions and decisions taken by the existing Vigilance Commission insofar as such actions and decisions are relatable to the functions of the Commission constituted under this Ordinance (hereafter referred to in this section as the new Commission) shall be deemed to have been taken by the new Commission;

(b) all proceedings pending before the existing Vigilance Commission, insofar as such proceedings relate to the functions of the new Commission, shall be deemed to be transferred to the new Commission and shall be dealt with in accordance with the provisions of this Ordinance;

(c) the employees of the existing Vigilance Commission shall be deemed to have become the employees of the new Commission on the same terms and conditions;

(d) all the assets and liabilities of the existing Vigilance Commission shall be transferred to the new Commission.

46 of 1973.

25. Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1973 or any other law for the time being in force, -

Appointments, etc., of officers of Directorate of Enforcement.

(a) the Central Government shall appoint a Director of Enforcement in the Directorate of Enforcement in the Ministry of Finance on the recommendation of the Committee consisting of—

- | | | |
|---|---|--------------|
| (i) the Central Vigilance Commissioner | — | Chairperson; |
| (ii) Secretary to the Government of India in-charge of the Ministry of Home Affairs in the Central Government | — | Member; |
| (iii) Secretary to the Government of India in-charge of the Ministry of Personnel in the Central Government | — | Member; |
| (iv) Secretary to the Government of India in-charge of the Department of Revenue, Ministry of Finance in the Central Government | — | Member; |

(b) no person below the rank of Additional Secretary to the Government of India shall be eligible for appointment as a Director of Enforcement;

(c) a Director of Enforcement shall continue to hold office for a period of not less than two years from the date on which he assumes office;

(d) a Director of Enforcement shall not be transferred except with the previous consent of the Committee referred to in clause (a);

(e) the Committee referred to in clause (a) shall recommend officers for appointment to the posts of the level above the Deputy Director of Enforcement and also recommend the extension or curtailment of the tenure of such officers in the Directorate of Enforcement;

(f) on receipt of the recommendation under clause (e), the Central Government shall pass such order as it thinks fit to give effect to the said recommendation.

Amendment
of Act 25
of 1946.

26. In the Delhi Special Police Establishment Act, 1946, with effect from the appointed day—

(a) after section 1, the following section shall be inserted, namely:—

Definition.

"1A. Words and expressions used herein and not defined but defined in the Central Vigilance Commission Ordinance, 1998, shall have the meanings, respectively, assigned to them in that Ordinance.";

(b) for section 4, the following sections shall be substituted, namely:—

Superinten-
dence and
adminis-
tration of
Special
Police
Estab-
lishment.

"4. (1) The superintendence of the Delhi Special Police Establishment insofar as it relates to investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988, shall vest in the Commission.

49 of 1988.

(2) Save as otherwise provided in sub-section (1), the superintendence of the said police establishment in all other matters shall vest in the Central Government.

(3) The administration of the said police establishment shall vest in an officer appointed in this behalf by the Central Government (hereinafter referred to as the Director) who shall exercise in respect of that police establishment such of the powers exercisable by an Inspector-General of police in respect of the police force in a State as the Central Government may specify in this behalf.

Committee
for appoint-
ment of
Director.

4A. (1) The Central Government shall appoint the Director on the recommendation of the Committee consisting of—

(a) the Central Vigilance Commissioner - Chairperson;

(b) Secretary to the Government of India
in-charge of the Ministry of Home Affairs
in the Central Government - Member;

(c) Secretary to the Government of India
in-charge of the Ministry of Personnel
in the Central Government - Member.

(2) While making any recommendation under sub-section (1), the Committee shall consider the views of the Director.

(3) The Committee shall recommend a panel of officers—

(a) on the basis of seniority, integrity and experience in investigation of anti-corruption cases; and

61 of 1951. (b) chosen from amongst officers belonging to the Indian Police Service constituted under the All-India Services Act, 1951,

for being considered for appointment as the Director.

4B. (1) The Director shall, notwithstanding anything to the contrary contained in the rules relating to his conditions of service, continue to hold office for a period of not less than two years from the date on which he assumes office.

Terms and conditions of service of Director.

(2) The Director shall not be transferred except with the previous consent of the Committee referred to in sub-section (1) of section 4A.

4C. (1) The Committee referred to in section 4A shall, after consulting the Director, recommend officers for appointment to the posts of the level of Joint Director and above and also recommend the extension or curtailment of the tenure of such officers in the Delhi Special Police Establishment.

Appointment for posts of Joint Director and above, extension and curtailment of their tenure, etc.

(2) On receipt of the recommendation under sub-section (1), the Central Government shall pass such order as it thinks fit to give effect to the said recommendation.

(c) after section 6, the following section shall be inserted, namely:-

49 of 1988. "6A. (1) The Delhi Special Police Establishment shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988 except with the previous approval of the Commission where such allegation relates to,

Approval of Commission to conduct inquiry or investigation.

(a) the employees of the Central Government of the level of Joint Secretary and above;

(b) such officers as are appointed by the Central Government in the corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

49 of 1988. (2) Notwithstanding anything contained in sub-section (1), no such approval shall be necessary for cases involving the arrest of a person on the spot on the charge of accepting or attempting to accept, any gratification other than legal remuneration referred to in clause (c) of the Explanation to section 7 of the Prevention of Corruption Act 1988."

THE SCHEDULE

[See section 5(3)]

Form of oath or affirmation to be made by the Central Vigilance Commissioner or Vigilance Commissioner:—

"I, A.B., having been appointed Central Vigilance Commissioner (or Vigilance Commissioner) of the Central Vigilance Commission do swear in the name of God solemnly affirm.

that I will bear true faith and allegiance to the Constitution of India as by law established; that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws."

K.R. NARAYANAN,
President.

RAGHBIR SINGH,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
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MONDAY, DECEMBER 21, 1998/AGRAHAYANA 30, 1920

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART—VI**Acts of Parliament and Ordinances promulgated by the President.****GOVERNMENT OF GUJARAT****LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT**

Sachivalaya, Gandhinagar, 21st December, 1998.

No. RP/103/98/Act-14/98/E.—The following Act of Parliament is
 re-published for general information :—

GOVERNMENT OF INDIA**MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS****(Legislative Department)**

New Delhi, the 2nd July, 1998/Āsadha 11, 1920 (Saka)

The following Act of Parliament received the assent of the President on the
 2nd July, 1998 and is hereby published for general information :

THE ELECTRICITY REGULATORY COMMISSION ACT, 1998.**(Act No. 14 of 1998).****AN ACT****(2nd July, 1998)**

*to provide for the establishment of a Central Electricity Regulatory Commission and State
 Electricity Regulatory Commissions, rationalization of electricity tariff, transparent
 policies regarding subsidies, promotion of efficient and environmentally benign
 policies and for matters connected therewith or incidental thereto.*

Be it enacted, by Parliament in the Forty-ninth Year of the Republic of India as
 follows :—

CHAPTER I**PRELIMINARY**

1. (1) This Act may be called the Electricity Regulatory Commissions Act, 1998.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall be deemed to have come into force on the 25th day of April, 1998.

Short title, ex-
 tent and com-
 mencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Central Commission" means the Central Electricity Regulatory Commission established under sub-section (1) of section 3;

(b) "Chairperson" means the Chairperson of the Commission;

(c) "Commission" means the Central Commission or the State Commission, as the case may be;

(d) "High Court" means—

(i) the High Court within the jurisdiction of which the aggrieved party ordinarily resides or carries on business or personally works for gain; and

(ii) where the Central Government is the aggrieved party, the High Court within the jurisdiction of which the respondent, or in a case where there are more than one respondent, any of the respondents ordinarily resides or carries on business or personally works for gain;

(e) "inter-State transmission" includes—

(i) the conveyance of energy by means of a main transmission line from the territory of one State to the territory of another State;

(ii) the conveyance of energy across the territory of an intervening State as well as conveyance within the State which is incidental to such inter-State transmission of energy;

(iii) the transmission of energy within the territory on a system built, owned, operated, maintained or controlled by a central transmission utility or by any person under the supervision and control of a central transmission utility;

(f) "licensee" means a person licensed under Part II of the Indian Electricity Act, 1910 to supply energy or a person who has obtained sanction under section 28 of that Act to engage in the business of supplying energy (but does not include the Board or a Generating company);

9 of 1910.

(g) "Member" means the Member of the Commission and includes the Chairperson but does not include a Member, *ex-officio*;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "regulations" means regulations made under this Act;

(j) "State Commission" means the State Electricity Regulatory Commission established under sub-section (1) of section 17;

(k) "transmission utility" means any generating company, board, licensee or other person engaged in the transmission of energy;

(l) "utility" means any person or entity engaged in the generation, transmission, sale, distribution or supply, as the case may be, of energy;

(m) words and expressions used and not defined in this Act but defined in the Electricity (Supply) Act, 1948 or the Indian Electricity Act, 1910 shall have the meanings respectively assigned to them in those Acts.

54 of 1948.
9 of 1910.

CHAPTER II

CENTRAL ELECTRICITY REGULATORY COMMISSION

Establishment
and incorpora-
tion of Central
Commission.

3. (1) The Central Government shall, within three months from the date of the commencement of this Act by notification in the Official Gazette, establish a body to be known as the Central Electricity Regulatory Commission to exercise the powers conferred on, and the functions assigned to, it under this Act.

(2) The Central Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Central Commission shall be at such place as the Central Government may, by notification in the Official Gazette, specify.

(4) The Central Commission shall consist of the following Members, namely:—

(a) a Chairperson and three other Members;

(b) the Chairman of the Central Electricity Authority appointed under sub-section (3) of section 3 of the Electricity (Supply) Act, 1948, who shall be the Member, *ex-officio*.

(5) The Chairperson and the other Members of the Central Commission shall be appointed by the Central Government on the recommendation of the Selection Committee referred to in section 5:

Provided that nothing contained in this sub-section shall apply to the appointment of a person as the Chairperson, where such person is or has been a Judge of the Supreme Court or the Chief Justice of a High Court.

4. (1) The Chairperson and the Members of the Central Commission shall be persons having adequate knowledge, experience or shown capacity in dealing with problems relating to engineering, law, economics, commerce, finance or management and shall be appointed in the following manner, namely:—

Qualification for appointment of Chairperson and other Members of Central Commission.

(a) one person having qualification and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity;

(b) one person having qualification and experience in the field of finance; and

(c) two persons having qualification and experience in the field of economics, commerce, law or management:

Provided that not more than one Member shall be appointed under the same category under clause (c).

(2) Notwithstanding anything contained in sub-section (1), the Central Government may appoint any person as the Chairperson from amongst persons who is or has been a Judge of the Supreme Court or the Chief Justice of a High Court:

Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of India.

(3) The Chairperson or any other Member of the Central Commission shall not hold any other office.

(4) The Chairperson shall be the Chief Executive of the Central Commission.

5. (1) The Central Government shall, for the purpose of sub-section (5) of section 3, constitute a Selection Committee consisting of—

Constitution of Selection Committee to recommend Members.

(a) Member of the Planning Commission incharge of the energy sector

—Chairperson;

(b) Secretary-in-charge of the Ministry of the Central Government dealing with the Department of Legal Affairs

—Member;

(c) Chairman of the Public Enterprises Selection Board

—Member;

(d) a person to be nominated by the Central Government in accordance with sub-section (2)

—Member;

(e) a person to be nominated by the Central Government in accordance with sub-section (3)

—Member;

(f) Secretary-in-charge of the Ministry of the Central Government dealing with Power

—Member.

(2) For the purposes of clause (d) of sub-section (1), the Central Government shall nominate from amongst persons holding the post of Chairman or Managing Director, by whatever name called, of any public financial institution specified in section 4A of the Companies Act, 1956.

1 of 1956.

(3) For the purposes of clause (e) of sub-section (1), the Central Government shall nominate from amongst persons holding the post of Director or the head of the institution, by whatever name called, of any research, technical or management institution notified by the Central Government in the Official Gazette for this purpose.

(4) Secretary-in-charge of the Ministry of the Central Government dealing with Power shall be the Convenor of the Selection Committee.

(5) The Central Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or end of tenure of any Chairperson or Member, make a reference to the Selection Committee for filling up of the vacancy.

(6) The Selection Committee shall finalise the selection of the Chairperson and Members within one month from the date on which the reference is made to it.

(7) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(8) Before recommending any person for appointment as a Chairperson or other Member of the Central Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as a Member.

(9) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.

Term of office, salary and allowances and other conditions of service of Chairperson and Members.

6. (1) The Chairperson or other Member shall hold office as such for a term of five years from the date on which he enters upon his office, but shall not be eligible for re-appointment:

Provided that no Chairperson or other Member shall hold office as such after he has attained,—

(a) in the case of the Chairperson, the age of sixty-five years; and

(b) in the case of any other Member, the age of sixty-two years.

(2) The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be such as may be prescribed.

(3) The salary, allowances and other conditions of service of the Chairperson and other Members shall not be varied to their disadvantage after appointment.

(4) The Chairperson and every Member shall, before entering upon his office, make and subscribe to an oath of office and of secrecy in such form and in such manner and before such authority as may be prescribed.

(5) Notwithstanding anything contained in sub-section (1), the Chairperson or any Member may—

(a) relinquish his office by giving in writing to the President notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 7.

(6) The Chairperson or any Member ceasing to hold office as such shall—

(a) be ineligible for further employment under the Central Government or any State Government for a period of two years from the date he ceases to hold such office,

(b) not accept any commercial employment for a period of two years from the date he ceases to hold such office; and

(c) not represent any person before the Central Commission or a State Commission in any manner.

Explanation.—For the purposes of this sub-section,—

(i) "employment under the Central Government or the State Government" includes employment under any local or other authority within the territory of India or under the control of the Central Government or State Government or under any corporation or society owned or controlled by the Government.

(ii) "commercial employment" means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in the electricity industry and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

7. (1) Subject to the provisions of sub-section (3), any Member of the Central Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour after the Supreme Court, on reference being made to it by the President, has, on an inquiry, held in accordance with the procedure prescribed in this behalf by the Supreme Court, reported that the Member, ought on any such ground to be removed.

Removal of
Members.

(2) The President may suspend any Member of the Central Commission in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed an order on receipt of the report of the Supreme Court.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chairperson or any other Member, if the Chairperson or such other Member, as the case may be,—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(4) Notwithstanding anything contained in sub-section (3), no Member shall be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court, on a reference being made to it in this behalf by the President, has, on an inquiry, held by it in accordance with such procedure as prescribed in this behalf by the Supreme Court, reported that the Member, ought on such ground or grounds to be removed.

8. (1) The Central Commission may appoint a Secretary to exercise and perform under the control of the Chairperson such powers and duties as may be specified by regulations made by the Central Commission.

Officers of
Central
Commission
and other staff.

(2) The Central Commission may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required to assist the Central Commission in the discharge of its functions.

(3) The salaries and allowances payable to, and other conditions of service of, the Secretary, officers and other employees shall be such as may be determined with the approval of the Central Government, by regulations.

Proceedings of
Central
Commission.

(4) The Central Commission may appoint consultants required to assist the Central Commission in the discharge of its functions on the terms and conditions as may be determined by regulations made by the Central Commission.

9. (1) The Central Commission shall meet at the head office or any of its offices at such time as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be determined by regulations.

(2) The Chairperson or, if he is unable to attend a meeting of the Central Commission, any other Member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from among themselves, shall preside at the meeting.

(3) All questions which come up before any meeting of the Central Commission shall be decided by a majority of votes of the Members (including the Member, *ex officio*) present and voting, and in the event of an equality of votes, the Chairperson or the person presiding shall have the right to exercise a second or casting vote.

(4) Save as otherwise provided in sub-section (3), every Member shall have one vote.

(5) All orders and decisions of the Central Commission shall be authenticated by the Secretary or any other officer of the Central Commission duly authorised by the Chairperson in this behalf.

Vacancies, etc.,
not to
invalidate
proceedings of
Central
Commission.

10. No act or proceedings of the Central Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Central Commission.

Expenses of
Central
Commission to
be charged upon
Consolidated
Fund of India.

11. The expenses of the Central Commission including all salaries and allowances payable to, or in respect of, the Chairperson and the Member of the Central Commission shall be charged upon the Consolidated Fund of India.

Powers of
Central
Commission.

12. The Central Commission, shall, for the purposes of any inquiry or proceedings under this Act have the powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

5 of 1908.

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the requisition of any public record;

(e) the issue of commission for examination of witnesses;

(f) review its decisions, directions and orders;

(g) any other matter which may be prescribed.

CHAPTER III

POWERS AND FUNCTIONS OF CENTRAL COMMISSION

Functions of
Central
Commission.

13. The Central Commission shall discharge all or any of the following functions, namely:—

(a) to regulate the tariff of generating companies owned or controlled by the Central Government;

(b) to regulate the tariff of generating companies, other than those owned or controlled by the Central Government specified in clause (a), if such generating companies enter into or otherwise have a composite scheme for generation and sale of electricity in more than one State;

(c) to regulate the inter-State transmission of energy including tariff of the transmission utilities;

(d) to promote competition, efficiency and economy in the activities of the electricity industry;

(e) to aid and advise the Central Government in the formulation of tariff policy which shall be—

(i) fair to the consumers; and

(ii) facilitate mobilisation of adequate resources for the power sector;

(f) to associate with the environmental regulatory agencies to develop appropriate policies and procedures for environmental regulation of the power sector;

(g) to frame guidelines in matters relating to electricity tariff;

(h) to arbitrate or adjudicate upon disputes involving generating companies or transmission utilities in regard to matters connected with clauses (a) to (c) above;

(i) to aid and advise the Central Government on any other matter referred to the Central Commission by that Government.

14. (1) The Central Commission may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the Central Advisory Committee.

Central
Advisory
Committee.

(2) The Central Advisory Committee shall consist of not more than thirty-one members to represent the interests of commerce, industry, transport, agriculture, labour, consumers, non-governmental organisations and academic and research bodies in the energy sector.

(3) The Chairperson and Members of the Central Commission shall be the *ex-officio* Chairperson and *ex-officio* Members of the Central Advisory Committee.

15. The objects of the Central Advisory Committee shall be to advise the Central Commission on,—

Objects of
Central
Advisory
Committee.

(i) major questions of policy;

(ii) matters relating to quality, continuity and extent of service provided by the licensees;

(iii) compliance by the licensees with the conditions and requirements of their licence;

(iv) protection of consumer interest; and

(v) energy supply and overall standards of performance by utilities.

16. (1) Any person aggrieved by any decision or order of the Central Commission may file an appeal to the High Court.

Appeal to High
Court in
certain
cases.

(2) Except as aforesaid, no appeal or revision shall lie to any court from any decision or order of the Central Commission.

(3) Every appeal under this section shall be preferred within sixty days from the date of communication of the decision or order of the Central Commission to the person aggrieved by the said decision or order.

Provided that the High Court may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that the aggrieved person had sufficient cause for not preferring the appeal within the period of sixty days.

CHAPTER IV

STATE ELECTRICITY REGULATORY COMMISSION

Establishment
and
incorporation
of State
Commission.

17. (1) The State Government may, if it deems fit, by notification in the Official Gazette, establish, for the purposes of this Act, a Commission for the State to be known as the (name of the State) Electricity Regulatory Commission.

(2) The State Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the State Commission shall be at such place as the State Government may, by notification in the Official Gazette, specify.

(4) The State Commission shall consist of not more than three Members including the Chairperson.

(5) The Chairperson and the Members of the State Commission shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in dealing with problems relating to engineering, finance, commerce, economics, law or management.

(6) The Chairperson and the Members of the State Commission shall be appointed by the State Government on the recommendation of a Selection Committee referred to in section 18.

(7) Notwithstanding anything contained in sub-section (5) or sub-section (6), the State Government may appoint any person as the Chairperson from amongst persons who is or has been a Judge of a High Court :

Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of that High Court.

(8) The Chairperson shall be the Chief Executive of the State Commission.

(9) The Chairperson or any other Member of the State Commission shall not hold any other office.

Constitution of
Selection
Committee by
State
Government.

18. (1) The State Government shall, for the purposes of selecting the Members of the State Electricity Commission, constitute a Selection Committee consisting of—

(a) a person who has been a Judge of the High Court — Chairperson;

(b) the Chief Secretary of the concerned State — Member;

(c) the Chairperson or a Member of the Central Electricity Authority — Member.

Provided that nothing contained in this clause shall apply to the appointment of a person as the Chairperson who is or has been a Judge of the High Court.

(2) No appointment of a Member shall be invalid merely by reason of any vacancy in the Selection Committee.

(3) The State Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal and six months before the superannuation or end of tenure of any Chairperson or a Member, make a reference to the Selection Committee for filling up of the vacancy.

(4) The Selection Committee shall finalise the selection of the Member, within one month from the date on which the reference is made to it.

(5) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(6) Before recommending any person for appointment as a Member, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as a Member.

19. (1) The Chairperson or other Member shall hold office as such for a term of five years from the date on which he enters upon his office, but shall not be eligible for reappointment:

Term of office, salary and allowances and other conditions of service of Chairperson and Members.

Provided that no Chairperson or other Member shall hold office as such after he has attained,—

(a) in the case of the Chairperson, the age of sixty-five years; and

(b) in the case of any other Member, the age of sixty-two years.

(2) The salary and allowances payable to, and the other terms and conditions of service of, the Members of the State Commission shall be such as may be prescribed by the State Government.

(3) The salary, allowances and other conditions of service of the Members, shall not be varied to their disadvantage after appointment.

(4) Every Member of the State Commission shall, before entering upon his office, make and subscribe to an oath of office and of secrecy in such form and in such manner and before such authority as may be prescribed.

(5) Notwithstanding anything contained in sub-section (1) or sub-section (2), a Member may—

(a) relinquish his office by giving in writing to the Governor notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 20.

(6) Any Member ceasing to hold office as such shall—

(a) be ineligible for further employment under the Central Government or any State Government for a period of two years from the date he ceases to hold such office;

(b) not accept any commercial employment for a period of two years from the date he ceases to hold such office; and

(c) not represent any person before the Central Commission or State Commission in any manner.

Explanation.—For the purposes of this sub-section:—

(i) "employment under the Central Government or under the State Government" includes employment under any local or other authority within the territory of India or under the control of the Central Government or a State Government or under any corporation or society owned or controlled by the Government;

(ii) "commercial employment" means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in the electricity industry and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

20. (1) Subject to the provisions of sub-section (3), any Member of the State Commission shall only be removed from his office by order of the Governor on the ground of proved misbehaviour after the High Court, on reference being made to it by the Governor, has, on inquiry, held in accordance with the procedure prescribed in that behalf by the High Court, reported that the Member, ought on any such ground to be removed.

Removal of Members.

(2) The Governor may suspend any Member of the State Commission in respect of whom a reference has been made to the High Court under sub-section (1) until the Governor has passed orders on the receipt of the report of the High Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office, the Member if he—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(4) Notwithstanding anything contained in sub-section (3), no Member shall be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the High Court on a reference being made to it in this behalf by the Governor, has, on an inquiry, held by it in accordance with such procedure as prescribed in this behalf by the High Court, reported that the Member ought on such ground or grounds to be removed.

Officers of
State
Commission
and other staff.

21. (1) The State Commission may appoint a Secretary to exercise and perform under the control of the Chairperson such duties and powers as may be specified by regulations made by the State Commission.

(2) The State Commission may, with the approval of the State Government, determine the number, nature and categories of other officers and employees required to assist the State Commission in the discharge of its functions.

(3) The salaries and allowances payable to, and other conditions of service of, the Secretary, officers and other employees shall be such as may be determined by regulations with the approval of the State Government.

(4) The State Commission may appoint consultants required to assist the State Commission in the discharge of its functions on the terms and conditions as may be determined by regulations by the State Commission.

CHAPTER V

POWERS AND FUNCTIONS OF STATE COMMISSION

Functions of
State
Commission.

22. (1) Subject to the provisions of Chapter III, the State Commission shall discharge the following functions, namely:—

(a) to determine the tariff for electricity, wholesale, bulk, grid or retail, as the case may be, in the manner provided in section 29;

(b) to determine the tariff payable for the use of the transmission facilities in the manner provided in section 29;

(c) to regulate power purchase and procurement process of the transmission utilities and distribution utilities including the price at which the power shall be procured from the generating companies, generating stations or from other sources for transmission, sale, distribution and supply in the State;

(d) to promote competition, efficiency and economy in the activities of the electricity industry to achieve the objects and purposes of this Act.

(2) Subject to the provisions of Chapter III and without prejudice to the provisions of sub-section (1), the State Government may, by notification in the Official Gazette, confer any of the following functions upon the State Commission, namely:—

(a) to regulate the investment approval for generation, transmission, distribution and supply of electricity to the entities operating within the State;

(b) to aid and advise the State Government, in matters concerning electricity generation, transmission, distribution and supply in the State;

(c) to regulate the operation of the power system within the State;

(d) to issue licences for transmission, bulk supply, distribution or supply of electricity and determine the conditions to be included in the licences;

(e) to regulate the working of the licensees and other persons authorised or permitted to engage in the electricity industry in the State and to promote their working in an efficient, economical and equitable manner;

(f) to require licensees to formulate perspective plans and schemes in co-ordination with others for the promotion of generation, transmission, distribution, supply and utilisation of electricity, quality of service and to devise proper power purchase and procurement process;

(g) to set standards for the electricity industry in the State including standards relating to quality, continuity and reliability of service;

(h) to promote competitiveness and make avenues for participation of private sector in the electricity industry in the State, and also to ensure a fair deal to the customers;

(i) to lay down and enforce safety standards;

(j) to aid and advise the State Government in the formulation of the State power policy;

(k) to collect and record information concerning the generation, transmission, distribution and utilisation of electricity;

(l) to collect and publish data and forecasts on the demand for, and use of, electricity in the State and to require the licensees to collect and publish such data;

(m) to regulate the assets, properties and interest in properties concerning or related to the electricity industry in the State including the conditions governing entry into, and exit from, the electricity industry in the such manner as to safeguard the public interest;

(n) to adjudicate upon the disputes and differences between the licensees and utilities and to refer the matter for arbitration;

(o) to co-ordinate with environmental regulatory agencies and to evolve policies and procedures for appropriate environmental regulation of the electricity sector and utilities in the State; and

(p) to aid and advise the State Government on any other matter referred to the State Commission by such Government.

(3) The State Commission shall exercise its functions in conformity with the national power plan.

23. The provisions of sections 9, 10 and 12 shall apply to a State Commission and shall have effect, subject to the following modifications, namely:—

(a) references to "Central Commission" shall be construed as references to "State Commission";

Application of certain provisions relating to Central Commission to State Commissions.

(b) in sub-section (3) of section 9, the brackets and words "(including the Member, *ex-officio*)" shall be omitted.

State Advisory
Committee.

24. (1) The State Commission may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the State Advisory Committee.

(2) The State Advisory Committee shall consist of not more than twenty-one members to represent the interests of commerce, industry, transport, agriculture, labour, consumers, non-governmental organisations and academic and research bodies in the energy sector.

(3) The Chairperson and the Members of the State Commission shall be the *ex-officio* Chairperson and *ex-officio* Members of the State Advisory Committee.

Objects of
State Advisory
Committee.

25. The objects of the State Advisory Committee shall be to advise the Commission on—

(i) major questions of policy;

(ii) matters relating to quality, continuity and extent of service provided by the licensees;

(iii) compliance by licensees with the conditions and requirements of their licence;

(iv) protection of consumer interest; and

(v) energy supply and overall standards of performance by utilities.

Representation
before State
Commission.

26. The State Commission shall authorise any person as it deems fit to represent the interest of the consumers in all the proceedings before it.

Appeal to High
Court in certain
cases.

27. (1) Any person aggrieved by any decision or order of the State Commission may file an appeal to the High Court.

(2) Except as aforesaid, no appeal or revision shall lie to any court from any decision or order of the State Commission.

(3) Every appeal under this section shall be preferred within sixty days from the date of communication of the decision or order of the State Commission to the person aggrieved by the said decision or order.

Provided that the High Court may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that the aggrieved person had sufficient cause for not preferring the appeal within the said period of sixty days.

CHAPTER VI

ENERGY TARIFF

Determination
of tariff by
Central
Commission.

28. The Central Commission shall determine by regulations the terms and conditions for fixation of tariff under clauses (a), (b) and (c) of section 13, and in doing so, shall be guided by the following, namely:—

(a) the generating companies and transmission entities shall adopt such principles in order that they may earn an adequate return and at the same time that they do not exploit their dominant position in the generation, sale of electricity or in the inter-State transmission of electricity;

(b) the factors which would encourage efficiency, economical use of the resources, good performance, optimum investments and other matters which the Central Commission considers appropriate;

(c) national power plans formulated by the Central Government; and

54 of 1948.

(d) such financial principles and their applications contained in Schedule VI to the Electricity (Supply) Act, 1948 as the Commission considers appropriate.

29. (1) Notwithstanding anything contained in any other law, the tariff for intra-State transmission of electricity and the tariff for supply of electricity, grid, wholesale, bulk or retail, as the case may be, in a State (hereinafter referred to as the "tariff"), shall be subject to the provisions of this Act and the tariff shall be determined by the State Commission of that State in accordance with the provisions of this Act.

Determination
of tariff by
State
Commission.

(2) The State Commission shall determine by regulations the terms and conditions for the fixation of tariff, and in doing so, shall be guided by the following, namely:—

54 of 1948.

(a) the principles and their applications provided in sections 46, 57 and 57A of the Electricity (Supply) Act, 1948 and the Sixth Schedule thereto;

54 of 1948.

(b) in the case of the Board or its successor entities, the principles under section 59 of the Electricity (Supply) Act, 1948;

(c) that the tariff progressively reflects the cost of supply of electricity at an adequate and improving level of efficiency;

(d) the factors which would encourage efficiency, economical use of the resources, good performance, optimum investments, and other matters which the State Commission considers appropriate for the purposes of this Act;

(e) the interests of the consumers are safeguarded and at the same time, the consumers pay for the use of electricity in a reasonable manner based on the average cost of supply of energy;

(f) the electricity generation, transmission, distribution and supply are conducted on commercial principles;

(g) national power plans formulated by the Central Government.

(3) The State Commission, while determining the tariff under this Act, shall not show undue preference to any consumer of electricity, but may differentiate according to the consumer's load factor, power factor, total consumption of energy during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.

(4) The holder of each licence and other persons including the Board or its successor body authorised to transmit, sell, distribute or supply electricity wholesale, bulk or retail, in the State shall observe the methodologies and procedures specified by the State Commission from time to time in calculating the expected revenue from charges which he is permitted to recover and in determining tariffs to collect those revenues.

(5) If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under this section, the State Government shall pay the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the licence or any other person concerned to implement the subsidy provided for by the State Government.

54 of 1948.

(6) Notwithstanding anything contained in sections 57A and 57B of the Electricity (Supply) Act, 1948 no rating committee shall be constituted after the date of commencement of this Act and the Commission shall secure that the licensees comply with the provisions of their licence regarding the charges for the sale of electricity both wholesale and retail

and for connections and use of their assets or systems in accordance with the provisions of this Act.

Reasons for
deviation by
Commissions.

30. Where the Commissions depart from factors specified in clauses (a) to (d) of section 28 and clauses (a) to (f) of sub-section (2) of section 29, they shall record the reasons for such departure in writing.

CHAPTER VII

ACCOUNTS, AUDIT AND REPORTS

Budget of
Central
Commission.

31. The Central Commission shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Central Commission and forward the same to the Central Government.

Accounts and
audit of Central
Commission.

32. (1) The Central Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Central Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Central Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Central Commission under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Central Commission.

(4) The accounts of the Central Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Central Commission and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

Budget of State
Commission.

33. The State Commissions shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the State Commission and forward the same to the State Government.

Accounts and
audit of State
Commission.

34. (1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the State Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the State Commission under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Commission.

(4) The accounts of the State Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report

thereon shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

35. (1) The Central Commission shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

Annual report
of Central
Commission.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.

36. (1) The State Commission shall prepare once every year in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the State Government.

Annual report
of State
Commission.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before the State Legislature.

CHAPTER VIII

MISCELLANEOUS

37. The Commissions shall ensure transparency while exercising their powers and discharging their functions.

Transparency
in Commis-
sions.

38. (1) In the discharge of its functions, the Central Commission shall be guided by such directions in matters of policy involving public interest as the Central Government may give to it in writing.

Directions by
Central
Government.

(2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the Central Government thereon shall be final.

39. (1) In the discharge of its functions, the State Commission shall be guided by such directions in matters of policy involving public interest as the State Government may give to it in writing.

Directions by
State
Government.

(2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the State Government thereon shall be final.

40. The Chairperson, Members, officers and other employees of the Commissions shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Members,
officers and
employees of
Central
Commission to
be public
servants.

41. The provisions of this Act in so far as they relate to the State Commission shall not apply to the Commissions established under the Orissa Electricity Reform Act, 1995 or the Haryana State Electricity Reform Act, 1997.

Special
provision
relating to the
Orissa
Electricity
Reform Act,
1995 or
Haryana State
Electricity
Reform Act,
1997.

42. All proceedings before the Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

Proceedings
before
Commission.

45 of 1860.

43 of 1860.

2 of 1974.

Protection of
action taken in
good faith.

43. No Suit, prosecution or other legal proceedings shall lie against the Central or State Government or the Central or State Commission or any officer of Central or State Government or any Members, officer or other employees of the Central or State Commission for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Punishment for
non-compli-
ance of orders
or directions
under the Act.

44. Whoever fails to comply with any order, or direction given under this Act, within such time as may be specified in the said order or direction or contravenes, or attempts to contravene or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to rupees one lakh or, with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to rupees four thousand for every day during which the failure continues after conviction of the first such offence.

Punishment for
non-compli-
ance of
directions
given by a
Commission.

45. (1) In case any complaint is filed before the Commission by any person or if the Commission is satisfied that any person has contravened any directions issued by the Commission under this Act, rules or regulations made thereunder, the Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed rupees one lakh for each contravention and in case of a continuing failure with an additional penalty which may extend to rupees six thousand for every day during which the failure continues after contravention of the first such direction.

(2) Any amount payable under this section, if not paid, may be recovered as if it were an arrear of land revenue.

Power of
seizure.

46. The Commission or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.

2 of 1974.

Offences by
companies.

47. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

48. No court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by the Commission or by any other officer duly authorised by the Commission for this purpose.

Cognizance of offences.

49. Nothing contained in this Act or any rule or regulation made thereunder or any instrument having effect by virtue of this Act, rule or regulation shall have effect in so far as it is inconsistent with any other provisions of the Consumer Protection Act, 1986 or the Atomic Energy Act, 1962.

Inconsistency in laws.

68 of 1986.
33 of 1962.

50. The Central or the State Commission may, by general or special order in writing, delegate to any Members, officer of the Central or the State Commission or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to settle disputes under Chapters III and V and the power to make regulations under section 55 or section 58) as it may deem necessary.

Delegation.

51. With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, sub-section (2) of the section 43A of the Electricity (Supply) Act, 1948 shall be omitted:

Amendment of Act 54 of 1948.

Provided that different dates may be appointed for different States.

52. Save as otherwise provided in section 49, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

Overriding effect.

53. The Central Government may give directions to a State Government as to the carrying out into execution of this Act in the State.

Power to give directions.

54. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power of Central Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salary and allowances payable to and the other conditions of service of the Chairperson and Members under sub-section (2) of section 6;

(b) the form and the manner in which and the authority before whom oath of office and secrecy should be subscribed under sub-section (4) of section 6;

(c) the form in which and the time at which, the Central Commission shall prepare its budget under section 31;

(d) the form in which annual statement of accounts to be prepared by the Central Commission under sub-section (1) of section 32;

(e) the form and the time within which annual report should be filed under sub-section (1) of section 35;

(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

55. (1) The Central Commission may, by notification in the Official Gazette, make regulations consistent with this Act and the rules generally to carry out the purposes of this Act.

Power of Central Commission to make regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the powers and duties of the Secretary under sub-section (1) of section 8;

(b) the salaries, allowances and other conditions of service of the Secretary, officers and other employees under sub-section (3) of section 8;

(c) the terms and conditions of the consultants appointed under sub-section (4) of section 8;

(d) the rules of procedure to be observed by the Central Commission under sub-section (1) of section 9;

(e) the manner in which charges for energy may be determined under section 28.

Rules and regulations to be laid before Parliament.

56. Every rule made by the Central Government and every regulation made by the Central Commission under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power of State Government to make rules.

57. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salary, allowances and other conditions of service of the Members under sub-section (2) of section 19;

(b) the form and the manner in which and the authority before whom the oath of office and secrecy should be subscribed under sub-section (4) of section 19;

(c) the form in which and the time at which, the State Commission shall prepare its budget under section 33;

(d) the form in which annual statement of accounts to be prepared by the State Commission under sub-section (1) of section 34;

(e) the form and the time within which annual report shall be furnished under sub-section (1) of section 36;

(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

Power of State Commission to make regulations.

58. (1) The State Commission may, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the duties and powers of the Secretary under sub-section (1) of section 21;

(b) the salary, allowances and other conditions of service of the Secretary, officers and other employees under sub-section (3) of section 21;

(c) the terms and conditions of consultants appointed under sub-section (4) of section 21;

(d) the manner in which charges for energy may be determined under sub-section (2) of section 29;

(e) any other matter which is to be, or may be, specified.

Rules and regulations to be laid before State Legislature.

59. Every rule made by the State Government and every regulation made by the State Commission under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

60. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Ord. 14 of 1998.

61. (1) The Electricity Regulatory Commissions Ordinance, 1998 is hereby repealed.

Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

Sd/-

DR. RAGHBI SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 21st December, 1998.

No. RP/107/98/Act-22/98/E.—The following Act of Parliament is
re-published for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 11th August, 1998/Sravana 20, 1920 (Saka)

The following Act of Parliament received the assent of the President on the
10th August, 1998 and is hereby published for general information :

THE ELECTRICITY LAWS (AMENDMENT) ACT, 1998.

(Act No. 22 of 1998).

(10th August, 1998)

AN ACT

further to amend the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as
follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Electricity Laws (Amendment) Act, 1998.

(2) It shall come into force on such date as the Central Government may, by
notification in the Official Gazette, appoint.

Short title and
commence-
ment

CHAPTER II

AMENDMENTS TO THE INDIAN ELECTRICITY ACT, 1910

Amendment
of section 2.

2. In the Indian Electricity Act, 1910 (hereafter in this Chapter referred to as the Electricity Act), in section 2,—

9 of 1910.

(a) after clause (b), the following clauses shall be inserted, namely:—

'(ba) "area of transmission" means the area within which a transmission licensee or any other person is for the time being authorised to transmit energy;

'(bb) "Central Commission" means the Central Electricity Regulatory Commission established under sub-section (1) of section 3 of the Electricity Regulatory Commissions Act, 1998;

14 of 1998.

'(bc) "Central Transmission Utility" means the utility notified by the Central Government under sub-section (1) of section 27A;';

(b) after clause (g), the following clauses shall be inserted, namely:—

'(ga) "Government company" shall have the meaning assigned to it in section 617 of the Companies Act, 1956;

1 of 1956.

'(gb) "inter-State transmission system" means, any system for the conveyance of energy by means of a main transmission line from the territory of one State to another State and includes,—

(i) the conveyance of energy across the territory of an intervening State as well as conveyance within the State which is incidental to such inter-State transmission of energy;

(ii) the transmission of energy within the territory of a State on a system built, owned, operated, maintained or controlled by a Central Transmission Utility or by any person under the supervision and control of a Central Transmission Utility;

'(gc) "intra-State transmission system" means any system for transmission of energy other than an inter-State transmission system;';

(c) for clause (ll), the following clauses shall be substituted, namely:—

'(la) "State Commission" means the State Electricity Regulatory Commission established under sub-section (1) of section 17 of the Electricity Regulatory Commissions Act, 1998;

14 of 1998.

'(lb) "State Electricity Board" in relation to any State means the State Electricity Board, if any, constituted for that State under section 5 of the Electricity (Supply) Act, 1948 and includes any Board which functions in that State under sections 6 and 7 of the said Act;

54 of 1948.

'(lc) "State Transmission Utility" means the utility notified by the State Government under sub-section (1) of section 27B;';

(d) after clause (m), the following clauses shall be inserted, namely:—

'(ma) "transmission license" means a license granted under Part IIA to transmit energy;

'(mb) "transmission licensee" means a person who holds a transmission license;

(mc) "transmit" means conveyance of energy by means of transmission lines and the expression "transmission" shall be construed accordingly;

3. After Part II of the Electricity Act, the following Part shall be inserted, namely:—

Insertion
of new
Part IIA.

PART IIA

TRANSMISSION OF ENERGY

27A. (1) The Central Government shall, by notification in the Official Gazette, specify any Government company as the Central Transmission Utility.

Central
Transmission
Utility.

(2) The functions of the Central Transmission Utility shall be to—

(a) undertake transmission of energy through inter-State transmission system;

(b) discharge all functions of planning and coordination relating to inter-State transmission system with—

(i) State Transmission Utilities;

(ii) Central Government;

(iii) State Governments;

(iv) generating companies;

(v) Regional Electricity Boards;

(vi) Authority;

(vii) licensees;

(viii) transmission licensees;

(ix) any other person notified by the Central Government in this behalf.

(3) The Central Transmission Utility shall exercise supervision and control over the inter-State transmission system.

27B. (1) The State Government shall, by notification in the Official Gazette, specify the State Electricity Board or any Government company as the State Transmission Utility.

State
Transmission
Utility.

(2) The functions of the State Transmission Utility shall be to—

(a) undertake transmission of energy through intra-State transmission system;

(b) discharge all functions of planning and coordination relating to intra-State transmission system with—

(i) Central Transmission Utility;

(ii) State Governments;

(iii) generating companies;

(iv) Regional Electricity Boards;

(v) Authority;

(vi) licensees;

(vii) transmission licensees;

(viii) any other person notified by the State Government in this behalf.

(3) The State Transmission Utility shall exercise supervision and control over the intra-State transmission system.

(4) The State Transmission Utility shall comply with and ensure compliance by others in that State of the directions which the Central Transmission Utility may give from time to time in connection with the integrated grid operations and operation

Grant of
transmission
license by the
Central
Government.

of the power system or otherwise in regard to matters which affect the operation of the inter-State transmission system.

27C. (1) Until the Central Commission is established, the Central Government and thereafter the Central Commission may, subject to the provisions of sub-section (4), grant a transmission license to any person.

(2) A transmission license granted under sub-section (1) may authorise the transmission licensee to construct, maintain and operate any inter-State transmission system under the direction, control and supervision of the Central Transmission Utility.

(3) Every application under sub-section (1) shall be—

- (a) subject to such terms and conditions;
- (b) in such form; and
- (c) accompanied by such fees,

as may be notified by the Central Government or by the Central Commission, as the case may be, in this behalf.

(4) No application shall be entertained under sub-section (1) unless the applicant has obtained the approval of the Central Transmission Utility in such manner as may be notified by the Central Government or by the Central Commission, as the case may be, in this behalf.

(5) Until the Central Commission is established, the Central Government and thereafter the Central Commission in the case of inter-State transmission system may, if it considers necessary in public interest, by order subject to such conditions, if any, as may be specified in that order, grant exemption to any person from obtaining a transmission license under this section.

Grant of
transmission
license
by the State
Government.

27D. (1) Until the State Commission is established, the State Government and thereafter the State Commission may, subject to the provisions of sub-section (4), grant a transmission license to any person.

(2) A transmission license granted under sub-section (1) may authorise the transmission licensee to construct, maintain and operate any intra-State transmission system under the direction, control and supervision of the State Transmission Utility.

(3) Every application under sub-section (1) shall be—

- (a) subject to such terms and conditions;
- (b) in such form; and
- (c) accompanied by such fees,

as may be notified by the State Government or by the State Commission, as the case may be, in this behalf.

(4) No application shall be entertained under sub-section (1) unless the applicant has obtained the approval of the State Transmission Utility in such manner as may be notified by the State Government or by the State Commission, as the case may be, in this behalf.

(5) Until the State Commission is established, the State Government and thereafter the State Commission in the case of intra-State transmission system may, if it considers necessary in public interest, by order subject to such conditions, if any, as may be specified in that order, grant exemption to any person from obtaining a transmission license under this section.

Modified
application of
certain
sections to
transmission
license and
transmission
licensee.

27E. The provisions of sections 12 to 19 (both inclusive), section 25 and clauses XIV to XVII (both inclusive) of the Schedule shall, as far as may be, apply to a transmission licensee subject to the modification that references to "license" and "licensee" shall be construed as references to "transmission license" and "transmission licensee" respectively.

27F. (1) Every notification issued and every order made by the Central Government under this Part shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or order or both Houses agree that the notification or order should not be made, the notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or order.

Laying of certain notification and order, etc.

(2) Every notification issued by the State Government and every order made by the State Government under section 27D shall be laid, as soon as it is made or issued, before the State Legislature.

9 of 1890.
24 of 1989.

4. In section 29A of the Electricity Act, for the words and figures "in section 3 of the Indian Railways Act, 1890", the words and figures "in clause (32) of section 2 of the Railways Act, 1989" shall be substituted.

Amendment of section 29A.

5. In section 30 of the Electricity Act, in sub-section (1),—

Amendment of section 30.

(a) for the portion beginning with the words "No person other than a licensee" and ending with the words "one hundred volts—", the following shall be substituted, namely:—

"Save as otherwise exempted under this Act, no person other than Central Transmission Utility, State Transmission Utility, a transmission licensee, a licensee or a person to whom sanction is granted under section 28, duly authorised under the terms of his license or sanction, as the case may be, shall transmit or use energy at a rate exceeding two hundred and fifty watts and one hundred volts—";

9 of 1890.
24 of 1989.

(b) in the first proviso, for the words and figures "the Indian Railways Act, 1890", the words and figures "the Railways Act, 1989" shall be substituted.

6. After section 41 of the Electricity Act, the following section shall be inserted, namely:—

Insertion of new section 41A.

"41A. Whoever, in contravention of the provisions of this Act or regulations or license conditions, engages in the business of transmission of energy shall be punishable with fine which may extend to three thousand rupees and in case of a continuing contravention, with a daily fine which may extend to three hundred rupees."

Penalty for unauthorised transmission of energy.

7. For section 51 of the Electricity Act, the following section shall be substituted, namely:—

Substitution of new section for section 51.

"51. Notwithstanding anything contained in sections 12 to 16 (both inclusive) and sections 18 and 19, the Central Government in the case of inter-State transmission system and the State Government in the case of intra-State transmission system, as the case may be, may, by order in writing, for placing of electric supply-lines, appliances and apparatus for the transmission of energy or for the purpose of telephonic or telegraphic communication necessary for the proper co-ordination of works, confer upon any public officer, Central Transmission Utility, State Transmission Utility, licensee, transmission licensee or any other person engaged in the business of transmission or supplying energy to the public under this Act, subject to such conditions and restrictions (if any) as the Central Government or the State Government, as the case may be, may think fit to impose, and to the provisions of the Indian Telegraph Act, 1885, any of the powers which the telegraph-authority

Exercise in certain cases of powers of telegraph-authority.

13 of 1885.

possesses under the Act, with respect to the placing of telegraph-lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained."

Amendment of section 52.

8. In section 52 of the Electricity Act, for the words and figures "Arbitration Act, 1940", the words and figures "Arbitration and Conciliation Act, 1996" shall be substituted.

10 of 1940.
26 of 1996.

CHAPTER III

AMENDMENTS TO THE ELECTRICITY (SUPPLY) ACT, 1948

Amendment of section 2.

9. In the Electricity (Supply) Act, 1948 (hereafter in this Chapter referred to as the Supply Act), in section 2,—

54 of 1948.

(i) for clause (8A), the following clause shall be substituted, namely:—

'(8A) "power system" means all aspects of generation, transmission, distribution and supply of energy; and includes the following or any combination thereof—

- (a) generating stations;
- (b) transmission or main transmission lines;
- (c) sub-stations;
- (d) tie-lines;
- (e) load despatch activities;
- (f) mains or distribution mains;
- (g) electric supply-lines;
- (h) overhead lines;
- (i) service lines;
- (j) works;

(ii) for clauses (9A) and (9B), the following clauses shall be substituted, namely:—

'(9A) "Regional Electricity Board" means a Board constituted by resolution of the Central Government for a specified region for facilitating the integrated operation of the power system in that region;

(9B) "Regional Load Despatch Centre" means the Centre so designated for a specified region where the operation of the power system in that region and the integration of the power system with other regions and areas (within the territory of India or outside) are co-ordinated;

(9C) "State Load Despatch Centre", in relation to a State, means the Centre so designated where the operation of the power system in that State and integration of such State power system with other power system are co-ordinated;

(iii) for clause (12), the following clause shall be substituted, namely:—

'(12) "transmission lines" means all works mentioned in sub-section (7) used wholly or partially for the purposes of distribution or transmission of energy;

Substitution of new section for section 41.

10. For section 41 of the Supply Act, the following section shall be substituted, namely:—

Use of transmission lines.

"41. (1) Until the Central Commission is established, the Central Government and thereafter the Central Commission in the case of inter-State transmission system and until the State Commission is established, the State Government and thereafter

the State Commission in the case of intra-State transmission system may determine the charges payable to the Central Transmission Utility or State Transmission Utility, as the case may be, for the use of transmission system by a Board, its successor entity, generating company, licensee or any other person.

(2) The Central Transmission Utility or State Transmission Utility, as the case may be, may enter into an agreement with any transmission licensee for the exclusive use of the transmission system constructed, maintained and operated by the transmission licensee.

(3) Where the Central Transmission Utility or the State Transmission Utility, as the case may be, considers it necessary to use for any purpose any transmission system or transmission line or main transmission line of a generating company or a licensee, it shall have the power to use such lines to the extent to which the capacity thereof is surplus to the requirements of the generating company or the licensee on payment of charges calculated in accordance with the provisions of the Fifth Schedule."

11. For section 55 of the Supply Act, the following section shall be substituted, namely:—

Substitution of new section for section 55.

"55. (1) Until otherwise specified by the Central Government, the Central Transmission Utility shall operate the Regional Load Despatch Centres and the State Transmission Utility shall operate the State Load Despatch Centres.

Compliance of directions of the Regional Electricity Board, etc., by licensees or generating companies.

(2) The Regional Load Despatch Centre shall be the apex body to ensure integrated operation of the power system in the concerned region.

(3) The Regional Load Despatch Centre may give such directions and exercise such supervision and control as may be required for ensuring integrated grid operations and for achieving the maximum economy and efficiency in the operation of the power system in the region under its control.

(4) Subject to the provisions of sub-section (3), the State Load Despatch Centre in a State may give such directions and exercise such supervision and control as may be required for ensuring the integrated grid operations and for achieving the maximum economy and efficiency in the operation of the power system in that State.

(5) Every licensee, transmission licensee, Board, generating company, generating stations, sub-stations and any other person connected with the operation of the power system shall comply with the directions issued by the Load Despatch Centres under sub-sections (3) and (4).

(6) All directions issued by the Regional Load Despatch Centres to any transmission licensee of State transmission lines or any other licensee of the State or generating company (other than those connected to inter-State transmission system) or sub-station in the State shall be issued through the State Load Despatch Centre and the State Load Despatch Centre shall ensure that such directions are duly complied by the transmission licensee or licensee or generating company or sub-station.

(7) Subject to the above provisions of this section, the Regional Electricity Board in the region from time to time may mutually agree on matters concerning the smooth operation of the integrated grid and economy and efficiency in the operation of the power system in that region and every licensee, transmission licensee and others involved in the operation of the power system shall comply with the decision of the Regional Electricity Board.

(8) The Regional Load Despatch Centre or the State Load Despatch Centre, as the case may be, shall enforce the decision of the Regional Electricity Boards.

(9) Subject to regulations made under the Electricity Regulatory Commissions Act, 1998 by the Central Commission, in the case of Regional Load Despatch Centres or the State Commission in the case of State Load Despatch Centres, any dispute with reference to the operation of the power system including grid operation and as to whether any directions issued under sub-section (3) or sub-section (4) is reasonable or not, shall be referred to the Authority for decision:

14 of 1998.

Provided that pending the decision of the Authority, the directions of the Regional Load Despatch Centres or the State Load Despatch Centres, as the case may be, shall be complied with.

(10) Until the Central Commission is established, the Central Government and thereafter the Central Commission in the case of Regional Load Despatch Centre and until the State Commission is established, the State Government and thereafter the State Commission in the case of the State Load Despatch Centre of that State, may, by notification, specify the fees and charges to be paid to the Regional Load Despatch Centres and the State Load Despatch Centres, as the case may be, for undertaking the load despatch functions entrusted by the Central Government or by the State Government, as the case may be.

(11) The provision of sub-section (3) of section 4B shall apply in relation to any notification issued by the Central Government or the Central Commission as the case may be under sub-section (10), as they apply in relation to the rules made by that Government under Chapter II.

Amendment of
section 76.

12. In section 76 of the Supply Act,—

(a) in sub-section (3), for the words and figures "Arbitration Act, 1940", the words and figures "Arbitration and Conciliation Act, 1996" shall be substituted;

10 of 1940.

26 of 1996.

(b) for sub-section (3A), the following sub-section shall be substituted, namely:—

"(3A) Where any question or matter is referred to the Authority for arbitration under this section, the Authority may, having regard to the circumstances of each case, charge such arbitration fee as it may deem reasonable."

13. For section 79A of the Supply Act, the following section shall be substituted, namely:—

"79A. Every notification issued under section 55 by the State Government, or the State Commission, as the case may be, every rule made by that Government under section 78 and every regulation made by the Board under section 79, shall be laid, as soon as may be, before the State Legislature."

Substitution of
new section for
section 79A.

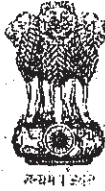
Laying of
notification
before the State
Legislature.

Sd/—

DR. RAGHBIR SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 21st December, 1998.

No. RP/117/98/ORD-19/98/E.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 31st October, 1998 is republished for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 31st October, 1998/Kartika 9, 1920 (Saka)

THE COMPANIES (AMENDMENT) ORDINANCE, 1998

No. 19 of 1998

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance further to amend the Companies Act, 1956

WHEREAS a Bill to consolidate and amend the law relating to companies and certain other associations has been introduced in Parliament and is pending consideration before the Department-related Standing Committee on Home Affairs;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to some of the provisions of the said Bill with certain modifications by amending the Companies Act, 1956;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Companies (Amendment) Ordinance, 1998.

(2) It shall come into force at once.

Short title
and com-
mencement.

Amendment of section 4A. / 2. In the Companies Act, 1956 (hereinafter referred to as the principal Act), in section 4A, in sub-section (1), after clause (v), the following clause shall be inserted, namely:—
 (vi) the Infrastructure Development Finance Company Limited, a company formed and registered under this Act."

Amendment of section 58A. 3. In section 58A of the principal Act, after sub-section (10) and before the Explanation, the following sub-section shall be inserted, namely:—
 "(11) A depositor may, at any time, make a nomination and the provisions of sections 109A and 109B shall, as far as may be, apply to the nomination made under this sub-section."

Insertion of new sections 77A and 77B. 4. After section 77 of the principal Act, the following sections shall be inserted, namely:—

Power of company to purchase its own securities. 77A.(1) Notwithstanding anything contained in this Act, but subject to the provisions of sub-section (2) and section 77B, a company may purchase its own shares or other specified securities (hereinafter referred to as "buy-back") from—

(i) out of its free reserves; or

(ii) out of the securities premium account; or

(iii) out of the proceeds of an earlier issue other than fresh issue of shares made specifically for buy-back purposes.

(2) No company shall purchase its own shares or other specified securities under sub-section (1) unless—

(a) the buy-back is authorised by its articles;

(b) a special resolution has been passed in general meeting of the company authorising the buy-back;

(c) the buy-back does not exceed twenty five per cent. of the total paid-up capital and free reserves of the company purchasing its own shares or other specified security;

(d) the ratio of the debt owed by the company is not more than twice the capital and its free reserves after such buy-back;

(e) all the shares or other specified securities fully paid-up;

(f) the buy-back is in accordance with the regulations made by the Securities Exchange Board of India in this behalf.

Explanation.—For the purposes of this sub-section, "specified securities" includes employees' stock option or other securities as may be notified by the Central Government from time to time.

(3) The notice of the meeting at which special resolution is proposed to be passed shall be accompanied by an explanatory statement stating—

- (a) a full and complete disclosure of all material facts;
- (b) the necessity for the buy-back;
- (c) the class of security intended to be purchased under the buy-back;
- (d) the amount to be invested under the buy-back; and
- (e) the time limit for completion of buy-back.

(4) Every buy-back shall be completed within twelve months from the date of passing the special resolution under sub-section (2).

(5) The buy-back under sub-section (1) may be—

- (a) from the existing security holders on a proportionate basis; or
- (b) from the open market; or
- (c) from odd lots, that is to say, where the lot of securities in a listed public company is smaller than such market lot as may be specified by the stock exchange; or
- (d) by purchasing the securities issued to employees of the company pursuant to a scheme of stock option or sweat equity.

(6) Where a company has passed a special resolution to buy-back its own shares or other securities under this section, it shall, before making such purchases, file with the Registrar and the Securities and Exchange Board of India a declaration of solvency in the form prescribed, verified by an affidavit to the effect that the Board has made a full inquiry into the affairs of the company as a result of which it is capable of meeting its liabilities and will not be rendered insolvent within a period of one year of the date of declaration adopted by the Board, and signed by at least two directors of the company, one of whom shall be the managing director, if any:

Provided that no declaration of solvency shall be filed with the Securities and Exchange Board of India by a company whose shares are not listed on any recognised stock exchange.

(7) Where a company buys-back its own securities, it shall extinguish and physically destroy the securities so bought-back within seven days of the last date of completion of buy-back.

(8) Where a company completes a buy-back of its securities under this section, it shall not make further issue of securities within a period of twenty-four months except by way of bonus issue or in the discharge of subsisting obligations such as conversion of warrants, stock option schemes sweat equity or conversion of preference shares or debentures into equity shares.

(9) Where a company buys-back its securities under this section, it shall maintain a register of the securities so bought, the consideration paid for the securities bought-back, the date of cancellation of securities and such other particulars as may be prescribed.

(10) A company shall, after the completion of the buy-back under this section, file with the Registrar and the Securities and Exchange Board of India, a return containing such particulars relating to the buy-back within thirty days of such completion, as may be prescribed:

(11) If a company makes default in complying with the provisions of this section or any rules made thereunder, the company or any officer of the company who is in default shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifty thousand rupees, or with both.

77B. No company shall purchase its own shares or other specified securities—

(a) through any subsidiary company including its own subsidiary companies; or

(b) through any investment company or group of investment companies; or

(c) if a default, in repayment of deposit, redemption of debenture or preference shares or repayment of a term loans to any financial institutions or bank is subsisting.

5. After section 79 of the principal Act, the following section shall be inserted, namely:—

"79A. (1) Notwithstanding anything contained in section 79, a company may issue sweat equity shares of a class of shares already issued if the following conditions are fulfilled, namely:—

(a) the issue of sweat equity shares is authorised by a resolution passed by the company in the general meeting;

(b) the resolution specifies the number of shares, their value and the class or classes of directors or employees to whom such equity shares are to be issued;

(c) not less than one year has at the date of the issue elapsed since the date on which the company was entitled to commence business;

(d) the sweat equity shares are issued in accordance with the regulations made by the Securities Exchange Board of India in this behalf.

Explanation I.— For the purposes of this sub-section, the expression "a company" means the company incorporated, formed and registered under this Act and includes its subsidiary company incorporated in a country outside India.

Explanation II.— For the purposes of this sub-section, the expression "sweat equity shares" means equity shares issued at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.

Prohibition
for buy-
back in
certain
circum-
stances.

Insertion
of new
section
79A -

Issue of
sweat
equity
shares.

(2) All the limitations, restrictions and provisions relating to equity shares shall be applicable to such sweat equity shares issued under sub-section (1)."

6. In section 82 of the principal Act, for the word "shares", the words "shares or debentures" shall be substituted.

Amendment
of section
82.

7. After section 109 of the principal Act, the following sections shall be inserted, namely:—

Insertion
of new
sections
109A and
109B.

"109A. (1) Every holder of shares in, or holder of debentures of, a company may, at any time nominate, in the prescribed manner, a person to whom his shares in, or debentures of, the company shall vest in the event of his death.

Nomination
of shares.

(2) Where the shares in, or debentures of, a company are held by more than one person jointly, the joint holders may together nominate, in the prescribed manner, a person to whom all the rights in the shares or debentures of the company shall vest in the event of death of all the joint holders.

(3) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such shares in, or debentures of, the company, where a nomination made in the prescribed manner purports to confer on any person the right to vest the shares in or debentures of the company, the nominee shall, on the death of the shareholder or holder of debentures of the company or, as the case may be, on the death of the joint holders become entitled to all the rights in the shares or debentures of the company or, as the case may be, all the joint holders, in relation to such shares in, or debentures of the company to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

(4) Where the nominee is a minor, it shall be lawful for the holder of the shares, or holder of debentures, to make the nomination to appoint in the prescribed manner any person to become entitled to shares in or debentures of the company, in the event of his death, during the minority.

109B. (1) Any person who becomes a nominee by virtue of the provisions of section 109A, upon the production of such evidence as may be required by the Board and subject as hereinafter provided, elect, either—

Trans-
mission of
shares.

(a) to be registered himself as holder of the share or debenture, as the case may be; or

(b) to make such transfer of the share or debenture, as the case may be, as the deceased shareholder or debenture holder, as the case may be, could have made.

(2) The Board shall, in either case, have the same right to decline or suspend registration as it would have had, if the deceased shareholder or debenture holder, as the case may be, had transferred the share or debenture, as the case may be, before his death.

(3) If the person being a nominee, so becoming entitled, elects to be registered as holder of the share or debenture, as the case may be, himself, he shall deliver or send to the company a notice in writing signed by him stating that he so elects and such notice shall be accompanied with the death certificate of the deceased shareholder or debenture holder, as the case may be.

(4) All the limitations, restrictions and provisions of this Act relating to the right to transfer and the registration of transfers of shares or debentures shall be applicable to any such notice or transfer as aforesaid as if the death of the member had not occurred and the notice or transfer were a transfer signed by that shareholder or debenture holder, as the case may be.

(5) A person, being a nominee, becoming entitled to a share or debenture by reason of the death of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share or debenture except that he shall not, before being registered a member in respect of his share or debenture, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company:

Provided that the Board may, at any time, give notice requiring any such person to elect either to be registered himself or to transfer the share or debenture, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends, bonuses or other moneys payable in respect of the share or debenture, until the requirements of the notice have been complied with."

Amendment
of section
205A.

8. In section 205A of the principal Act,—

(a) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) Any money transferred to the unpaid dividend account of a company in pursuance of this section which remains unpaid or unclaimed for a period of five years from the date of such transfer shall be transferred by the company to the Fund established under sub-section (1) of section 205C but a claim to any money so transferred to such Fund may be preferred to the authority or committee appointed under sub-section (4) of that section by the person to whom the money is due and shall be dealt with as if such transfer to the Fund had not been made."

(b) in sub-section (6),—

(i) for the words "general revenue account of the Central Government", the words, figures and letter "Fund established under section 205C" shall be substituted;

(ii) for the words "to such officer as the Central Government may appoint", the words "authority or committee as the Central Government may appoint" shall be substituted;

(c) for sub-section (7), the following sub-section shall be substituted, namely:—

"(7) The company shall be entitled to a receipt from the authority or committee under sub-section (4) of section 205C for any money transferred by it to the Fund and such a receipt shall be an effectual discharge of the company in respect thereof."

9. In section 205B of the principal Act, for the words "to the general revenue account of the Central Government, may apply to the Central Government", the words, figures, letter and brackets "to the Fund established under section 205C may apply to the authority or the committee appointed under sub-section (4) of that section" shall be substituted.

Amendment
of section
205B.

10. After section 205B of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
205C.

"205C. (1) The Central Government shall establish a fund to be called the Investor Education and Protection Fund (hereafter in this section referred to as the "Fund").

Establishment
of
Investor
Education
and
Protection
Fund.

(2) There shall be credited to the Fund the following amounts, namely:—

- (a) amounts in the unpaid dividend accounts of companies;
- (b) the application moneys received by companies for allotment of any securities and due for refund;
- (c) matured deposits with companies;
- (d) matured debentures with companies;
- (e) the interest accrued on the amounts referred to in clauses (a) to (d);
- (f) grants and donations given to the Fund by the Central Government, State Governments, companies or any other institutions for the purposes of the Fund; and
- (g) the interest or other income received out of the investments made from the Fund.

Provided that no such amounts referred to in clauses (a) to (d) shall form part of the Fund unless such amounts have remained unclaimed and unpaid for a period of five years from the date they became due for payment.

(3) The Fund shall be utilised for promotion of investor awareness and protection of the interests of investors in accordance with such rules as may be prescribed.

(4) The Central Government shall, by notification in the Official Gazette, specify an authority or committee, with such members as the Central Government may appoint, to administer the Fund, and maintain separate accounts and other relevant records in relation to the Fund in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(5) It shall be competent for the authority or committee appointed under sub-section (4) to spend moneys out of the Fund for carrying out the objects for which the Fund has been established."

Insertion
of new
section
210A.

11. After section 210 of the principal Act, the following section shall be inserted, namely:—

Constitution
of National
Advisory
Committee
on
Accounting
standards.

210A. (1) The Central Government may, by notification in the Official Gazette, constitute an Advisory Committee to be called the National Advisory Committee on Accounting Standards (hereafter in this section referred to as the "Advisory Committee") to advise the Central Government on the formulation and laying down of accounting policies and accounting standards for adoption by companies or class of companies under this Act.

(2) The Advisory Committee shall consist of the following members, namely:—

(a) a Chairperson who shall be a person of eminence well versed in accountancy, finance, business administration, business law, economics or similar discipline;

(b) one member each nominated by the Institute of Chartered Accountants of India constituted under the Chartered Accountants Act, 1949, the Institute of Cost and Works Accountants of India constituted under the Cost and Works Accountants Act, 1959 and the Institute of Company Secretaries of India constituted under the Company Secretaries Act, 1980; 38 of 1949, 23 of 1959, 56 of 1980.

(c) one representative of the Central Government to be nominated by it;

(d) one representative of the Reserve Bank of India to be nominated by it;

(e) one representative of the Comptroller and Auditor-General of India to be nominated by him;

(f) a person who holds or has held the office of professor in accountancy, finance or business management in any university or deemed university;

(g) the Chairman of the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 or his nominee; 54 of 1963.

(h) two members to represent the chambers of commerce and industry to be nominated by the Central Government; and

(i) one representative of the Securities and Exchange Board of India to be nominated by it.

(3) The Advisory Committee shall give its recommendations to the Central Government on such matters of accounting policies and standards and auditing as may be referred to it for advice from time to time.

(4) The members of the Advisory Committee shall hold office for such terms as may be determined by the Central Government at the time of their appointment and any vacancy in the membership in the Committee shall be filled by the Central Government in the same manner as the member whose vacancy occurred was filled.

(5) The non-official members of the Advisory Committee shall be entitled to such fees, travelling, conveyance and other allowances as are admissible to the officers of the Central Government of the highest rank.

12. In section 211 of the principal Act, after sub-section (3), the following sub-sections shall be inserted, namely:—

Amendment
of section
211.

(3A) Every profit and loss account and balance sheet of the company shall comply with the accounting standards.

(3B) Where the profit and loss account and the balance sheet of the company do not comply with the accounting standards, such companies shall disclose in its profit and loss account and balance sheet, the following, namely:—

- (a) the deviation from the accounting standards;
- (b) the reasons for such deviation; and
- (c) the financial effect, if any, arising due to such deviation.

(3C) For the purposes of this section, the expression "accounting standards" means the standards of accounting recommended by the Institute of Chartered Accountants of India constituted under the Chartered Accountants Act, 1949, as may be prescribed by the Central Government in consultation with the National Advisory Committee on Accounting Standards established under sub-section (1) of section 210A:

38 of 1949.

Provided that the standard of accounting specified by the Institute of Chartered Accountants of India shall be deemed to be the Accounting Standards until the National Advisory Committee on Accounting Standards is established under sub-section (1) of section 210A.

13. In section 227 of the principal Act, in sub-section (3),—

Amendment
of section
227.

(i) after clause (c), the following clause shall be inserted, namely:—

"(d) whether, in his opinion, the profit and loss account and balance sheet complied with the accounting standards referred to in sub-section (3C) of section 211."

(ii) in sub-section (4), for the word and brackets and letter "and (c)", the brackets, letters and word ", (c) and (d)" shall be substituted.

14. In section 370 of the principal Act, after sub-section (5), and before the explanation the following sub-section shall be inserted, namely:—

Amendment
of section
370.

"(6) Nothing contained in this section shall apply to a company on and after the commencement of the Companies (Amendment) Ordinance, 1998."

15. In section 372 of the principal Act, after sub-section (14), the following sub-section shall be inserted, namely:—

Amendment
of section
372.

"(15) Nothing contained in this section shall apply to a company on and after the commencement of the Companies (Amendment) Ordinance, 1998."

Insertion of
new section
372A.

16. After section 372 of the principal Act, the following section shall be inserted, namely:—

Inter-
corporate
loans and
investments.

"372A. (1) No company shall, directly or indirectly,—

- (a) make any loan to any body corporate;
- (b) give any guarantee, or provide security, in connection with a loan made by any other person to, or to any other person by, any body corporate; and
- (c) acquire, by way of subscription, purchase or otherwise the securities of any other body corporate,

exceeding sixty per cent. of its paid-up share capital and free reserves, or hundred per cent. of its free reserves, whichever is more:

Provided that where the aggregate of the loans and investments so far made, the amounts for which guarantee or security so far provided to or in all other bodies corporate, along with the investment, loan, guarantee or security proposed to be made or given by the Board, exceeds the aforesaid limits, no investment or loan shall be made or guarantee shall be given or security shall be provided unless previously authorised by a special resolution passed in a general meeting:

Provided further that the notice of such resolution shall indicate clearly the specific limits, the particulars of the body corporate in which the investment is proposed to be made or loan or security or guarantee to be given, the purpose of the investment, loan or security or guarantee, specific sources of funding and such other details.

(2) No loan to anybody corporate shall be made at the rate of interest lower than the prevailing bank rate of interest.

(3) No loan or investment shall be made or guarantee or security given by the Board in pursuance of sub-section (1) unless the resolution sanctioning it is passed at a meeting of the Board with the consent of all the directors present at the meeting and the prior approval of the public financial institution referred to in section 4A where any term loan is subsisting.

(4) (a) Every company shall keep a register showing the following particulars in respect of every investment or loan made, guarantee given or security provided by it in relation to any body corporate under sub-section (1), namely:—

- (i) the name of the body corporate;
- (ii) the amount, terms and purpose of the investment or loan or security or guarantee;
- (iii) the date on which the investment or loan has been made; and
- (iv) the date on which the guarantee has been given or security has been provided in connection with a loan.

(b) The particulars of investment, loan, guarantee or security referred to in clause (a) shall be entered chronologically in the register aforesaid within seven days of the making of such investment or loan, or the giving of such guarantee or the provision of such security.

(5) The register referred to in sub-section (4) shall be kept at the registered office of the company concerned and—

(a) shall be open to inspection at such office; and

(b) extracts may be taken therefrom and copies thereof may be required,

by any member of the company to the same extent, in the same manner, and on payment of the same fees as in the case of the register of members of the company; and the provisions of section 163 shall apply accordingly.

(6) The Central Government may, in consultation with the Securities and Exchange Board of India may, prescribe guidelines for the purposes of this section.

(7) Nothing contained in this section shall apply to any loan made, any guarantee given or any security provided or any investment made by—

(a) a banking company, or an insurance company, or a housing finance company in the ordinary course of its business, or a company established with the sole object of financing industrial enterprises, or of providing infrastructural facilities;

(b) a company whose principle business is the acquisition of shares, stock, debentures or other securities;

(c) a private company, unless it is a subsidiary of a public company;

(8) If default is made in complying with the provisions of this section, other than sub-section (4), the company and every officer of the company who is in default shall be punishable with imprisonment which may extend to two years or with fine which may extend to fifty thousand rupees:

Provided that where any such loan or any loan in connection with which any such guarantee or security has been given, or provided by the company, has been repaid in full, no punishment by way of imprisonment shall be imposed under this sub-section, and where such loan has been repaid in part, the maximum punishment which may be imposed under this sub-section by way of imprisonment shall be appropriately reduced:

Provided further that all persons who are knowingly parties to any such contravention shall be liable, jointly and severally, to the company for the repayment of the loan or for making good the same which the company may have been called upon to pay by virtue of the guarantee given or the securities provided by such company.

(9) If default is made in complying with the provisions of sub-section (4), the company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees and also with a further fine which may extend to five hundred rupees for every day after the first during which the default continues.

Explanation.—For the purposes of this section,—

(a) "loan" includes debentures or any deposit of money made by one company with another company, not being a banking company;

(b) "free reserves" means those reserves which, as per latest audited balance-sheet of the company, are free for distribution as dividend and shall include balance to the credit of the securities premium account but shall not include share application money.

Sd/—

K.R. NARAYANAN,

President.

Sd/—

RAGHBIR SINGH,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to Government.